

**APPENDIX A TO AMENDED COMPLAINT IN SUPPORT OF AMENDED PROOF OF CLAIM**

1 described throughout this complaint Ewald has lost substantial equity in his home, has damaged  
2 or destroyed credit, and at the time Ewald entered into the loan his home was worth \$755,000.00,  
3 now his home is worth approximately \$303,798.00. Ewald did not discover any of these  
4 misrepresentations or omissions until after a consultation with legal counsel at Brookstone Law,  
5 and through a complete and thorough investigation of the loan documentation, and a discussion  
6 of the surrounding facts, the fraudulent acts of the Defendants, as described throughout this  
7 complaint, were brought to light on or around September 22, 2011. (True and correct copy of the  
8 aforementioned documents are attached hereto as *Exhibit 13*).

9         19. Plaintiff Regina Faison ("Faison") discussed refinancing an existing mortgage on  
10 her property located at 22791 Rumble Drive, Lake Forest, CA 92630 and A.P.N.: 614-082-40  
11 with a loan consultant (the "Loan Consultant"), a representative and authorized agent of  
12 Homecomings Financial, LLC, a correspondent of GMAC Mortgage and authorized by GMAC  
13 Mortgage and Defendants herein (the "Defendants") to lend on its behalf, in or around October  
14 2005. In the course of their discussions ranging from October 2005 until December 2005,  
15 Defendants and Loan Consultant steered her into an Interest-Only ARM in the amount of  
16 \$576,000 with an interest rate at 6.500% for a term of 30 years. Little did Faison know, however,  
17 payments made during the first ten years of her loan were Interest-Only. Faison was also not  
18 advised that her interest rate was "fixed" for ten years and could adjust every month. This loan  
19 was originated by GMAC and Defendants, on the note and deed of trust Homecomings  
20 Financial, LLC is identified as the lender, and GMAC is currently servicing the loan.

21         Defendants and Loan Consultant represented to Faison that her monthly payment would  
22 always be \$3,120.00. Although the amount of Faison's initial, disclosed monthly payment was  
23 \$3,120.00, Defendants and Loan Consultant failed to clarify their partially true representations  
24 and advise Faison that: (1) her monthly payment would not pay down any of their principal  
25 balance during the Interest-Only period, or (2) her monthly payment would drastically increase at  
26 the end of the Interest-Only period, or (3) the amount of her initial, disclosed monthly payment  
27 would not remain "fixed" for the entire term of his loan.

28         Defendants and Loan Consultant also explicitly represented to Faison that she could



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1 afford her loan and further represented that she could shoulder the additional financial burden of  
2 repaying her loan in consideration of her other existing debts; yet failed to disclose that the fully  
3 amortized monthly payment on the loan was \$4,294.51. Given Faison's true monthly income of  
4 \$4,500, this represents a "front-end" debt-to-income ratio, meaning a debt-to-income ratio,  
5 before any other debts are even considered, of over 95%- in excess of industry standard  
6 underwriting guidelines, and in excess of Defendants' own underwriting guidelines. Defendants  
7 and Loan Consultant further represented to Faison that she could rely on the assessment that she  
8 was "qualified" to mean that she could afford the loan. Because of Faison's lack of familiarity  
9 with how much debt a person can and should reasonably take on compared to her monthly  
10 income, and because Faison reasonably relied on Defendants' and Loan Consultant's expertise  
11 that any payment she was "qualified" for would take into account what the maximum debt a  
12 person such as Faison should be shouldering was, Faison reasonably believed Defendants' and  
13 Loan Consultant's representations that she could afford her loan and its payments. Although  
14 Defendants and Loan Consultant represented to Faison that she was "qualified" for her loan and  
15 could afford her loan and its monthly payments, Defendants and Loan Consultant misled Faison  
16 into believing that her monthly payments would always only be \$3,120.00. Furthermore, at no  
17 point did Defendants or Loan Consultant clarify Faison's false belief and advise her that  
18 \$3,120.00 would not be her permanent payment under the loan, or that every time she made a  
19 monthly payment in the amount of \$3,120.00, she was not paying down any of her principal  
20 balance.

21 In addition, Defendants and Loan Consultant represented that appraisals conducted by or  
22 on behalf of Defendants were accurate and made in good faith. On or around November 2005, an  
23 appraisal company under the direct control and supervision of Defendants conducted an appraisal  
24 on Faison's home, which was fraudulently inflated to a grossly and intentionally overstated  
25 value. Defendants and Loan Consultant represented that, per appraisal, Faison's home was worth  
26 \$800,000.00 at the time she entered into her loan, and that such a valuation was a true and  
27 correct measure of her home's worth. The current fair market value of Faison's home is  
28 approximately \$510,000.00. Faison alleges that the appraisal was artificially inflated, and that



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1 she has suffered damages in the amount of \$290,000.00 (\$800,000.00-\$510,000.00) due to a  
2 substantial loss of equity in her home as a result of Defendants' fraudulent inflation and other  
3 acts described herein.

4 Defendants and Loan Consultant also represented to Faison that she would be able to  
5 refinance her loan at a later time. Faison relied on this assurance in deciding to enter into the  
6 mortgage contract. However, Faison has not been able to refinance her loan. Defendants and  
7 Loan Consultant also represented that it would modify Faison's loan, and did so, yet with  
8 egregious terms. The terms of Faison's permanent modification require her to pay interest only  
9 payments for the next ten years, maturing on February 10, 2016, then principal and interest  
10 payments until the end of her loan term, being January 1, 2036. Defendant's loan modification  
11 only allows 20 years, (February 10, 2016 until January 1, 2036) for Faison to pay off the full  
12 principal balance of her loan. Should she fail to do so, a balloon payment of the remaining  
13 amount will be due. Faison alleges that these loan terms are not beneficial, effectively worsening  
14 her loan conditions, yet to no success has been able to obtain a more reasonable offer from  
15 Defendants, despite numerous attempts.

16 Furthermore, Defendants and Loan Consultant represented that: (1) Defendants were  
17 reputable and complied with industry standard underwriting guidelines and were engaged in  
18 lending of the highest caliber; (2) property appraisals done by Defendants were accurate and  
19 made in good faith; (3) Faison could afford the loan ; (4) she was "qualified" for her loan; (5)  
20 "qualified" meant that she could afford her loan; (6) she would be able to modify her loan and  
21 (7) she would be able to refinance her loan.

22 Moreover, Defendants and Loan Consultant withheld or incompletely, inaccurately or  
23 otherwise improperly disclosed to Faison that: (1) Defendants and Loan Consultant knew that  
24 she could not and would not be able to afford her loan and that there was a very high probability  
25 that she would default and/or be foreclosed upon; (2) Defendants had an incentive to sell her  
26 loan, and did sell her loan at fraudulently inflated prices; (3) Defendants' and Loan Consultant's  
27 "qualification" process was for Defendants' own protection and not hers; (4) that Defendants'  
28 and Loan Consultant's representations that she was "qualified" to pay her loan was not intended



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1 to communicate that she could actually “afford” the loan which she was being given; (5)  
2 Defendants had abandoned its conventional lending business, prudent lending standards, and  
3 industry standard underwriting guidelines; (6) Defendants influenced the appraiser to over-value  
4 Faison’s home to require her to borrow more money with the knowledge that the true value of  
5 Faison’s home was insufficient to justify the amount of Faison’s loan; or (7) Defendants knew  
6 that due to its scheme of fraudulently manipulating and inflating property values throughout the  
7 State of California that the real estate market would crash and Faison would lose substantial  
8 equity in her home.

9       Based on these misrepresentations and omissions, the material facts concerning Faison’s  
10 loan were concealed from her, and she decided to move forward with her loan. On December 23,  
11 2005, Faison signed the loan and Deed of Trust, before a notary. Had she known the truth  
12 however, Faison would not have accepted the loan. As a result of Defendants’ fraudulent acts  
13 described throughout this complaint Faison has lost substantial equity in her home, has damaged  
14 or destroyed credit, and at the time Faison entered into the loan her home was worth \$800,000.00  
15 now her home is worth approximately \$510,000.00. Faison did not discover any of these  
16 misrepresentations or omissions until after a consultation with legal counsel at Brookstone Law,  
17 and through a complete and thorough investigation of the loan documentation, and a discussion  
18 of the surrounding facts, the fraudulent acts of the Defendants, as described throughout this  
19 complaint, were brought to light on or around February 3, 2012. (True and correct copy of the  
20 aforementioned documents are attached hereto as *Exhibit 14*).

21       20. Plaintiff Alejandra Ibarra (“Ibarra”) discussed obtaining a mortgage to purchase  
22 her home located at 2740 Lincoln Drive, San Bernardino, CA 92405 and A.P.N.: 0148-112-21-  
23 0000 with a loan consultant (the “Loan Consultant”), a representative and authorized agent of  
24 GMAC Mortgage and Defendants herein (the “Defendants”), in or around March 2008. In the  
25 course of their discussions ranging from March 2008 until May 2008, Defendants and Loan  
26 Consultant advised her to enter into a fixed rate loan in the amount of \$156,750 with an interest  
27 rate of 6.25%, for a term of 30 years. The loan was originated by GMAC, on the note and deed  
28 of trust GMAC was identified as the lender, and the loan is being serviced by GMAC.



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1 Defendants and Loan Consultant explicitly represented to Ibarra that she could afford her  
2 loan; and further represented that she could shoulder the additional financial burden of repaying  
3 her loan in consideration of her other existing debts. Defendants and Loan Consultant also  
4 represented to her that she could afford a \$1,446.10 monthly payment, despite her \$2,480.00 true  
5 monthly income (a “front-end” debt-to-income ratio, meaning a debt-to-income ratio, before any  
6 other debts are even considered, of over 58%- in excess of industry standard underwriting  
7 guidelines, and in excess of Defendants’ own underwriting guidelines). Defendants and Loan  
8 Consultant further represented to Ibarra that she could rely on the assessment that she was  
9 “qualified” to mean that she could afford the loan. Because of Ibarra’s lack of familiarity with  
10 how much debt a person can and should reasonably take on compared to her monthly income,  
11 and because Ibarra reasonably relied on Defendants’ and Loan Consultant’s expertise that any  
12 payment she was “qualified” for would take into account what the maximum debt a person such  
13 as Ibarra should be shouldering was, Ibarra reasonably believed Defendants’ and Loan  
14 Consultant’s representations that she could afford her loan and its payments.

15 Defendants and Loan Consultant also represented to Ibarra that she would be able to  
16 refinance her loan at a later time. Ibarra relied on this assurance in deciding to enter into the  
17 mortgage contract. However, Ibarra was not been able to refinance her loan because her home  
18 did not contain enough equity. Defendants and Loan Consultant also represented that it would  
19 modify Ibarra’s loan, and Ibarra relied on this representation in deciding to enter into the loan.  
20 However, Ibarra was unable to modify her loan.

21 Furthermore, Defendants and Loan Consultant represented that: (1) Defendants were  
22 reputable and complied with industry standard underwriting guidelines and were engaged in  
23 lending of the highest caliber; (2) property appraisals done by Defendants were accurate and  
24 made in good faith; (3) Ibarra could afford the loan; (4) she was “qualified” for her loan; (5)  
25 “qualified” meant that she could afford her loan; (6) she would be able to modify her loan and  
26 (7) she would be able to refinance her loan.

27 Moreover, Defendants and Loan Consultant withheld or incompletely, inaccurately or  
28 otherwise improperly disclosed to Ibarra that: (1) Defendants and Loan Consultant knew that she



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1 could not and would not be able to afford her loan and that there was a very high probability that  
2 she would default and/or be foreclosed upon; (2) Defendants had an incentive to sell her loan,  
3 and did sell her loan at fraudulently inflated prices; (3) Defendants' and Loan Consultant's  
4 "qualification" process was for Defendants' own protection and not hers; (4) that Defendants'  
5 and Loan Consultant's representations that she was "qualified" to pay her loan was not intended  
6 to communicate that she could actually "afford" the loan which she was being given; (5)  
7 Defendants had abandoned its conventional lending business, prudent lending standards, and  
8 industry standard underwriting guidelines; (6) Defendants influenced the appraiser to over-value  
9 Ibarra's home to require her to borrow more money with the knowledge that the true value of  
10 Ibarra's home was insufficient to justify the amount of Ibarra's loan; or (7) Defendants knew that  
11 due to its scheme of fraudulently manipulating and inflating property values throughout the State  
12 of California that the real estate market would crash and Ibarra would lose substantial equity in  
13 her home.

14 Based on these misrepresentations, the material facts concerning Ibarra's loan were  
15 concealed from her, and she decided to move forward with her loan. On May 13, 2008, Ibarra  
16 signed the loan and Deed of Trust, before a notary. Had she known the truth however, Ibarra  
17 would not have accepted the loan. As a result of Defendants' fraudulent acts described  
18 throughout this complaint Ibarra has lost substantial equity in her home and has damaged or  
19 destroyed credit. Ibarra did not discover any of these misrepresentations until after a consultation  
20 with legal counsel at Brookstone Law, and through a complete and thorough investigation of the  
21 loan documentation, and a discussion of the surrounding facts, the fraudulent acts of the  
22 Defendants, as described throughout this complaint, were brought to light on or around  
23 December 10, 2011.

24 21. Plaintiffs Julio and Maria Elena Del Cid ("Mr. and Mrs. Del Cid") discussed  
25 refinancing an existing mortgage on their property located at 5424 Cimarron Street, Sherman  
26 Oaks, CA 91423 with a loan consultant (the "Loan Consultant"), a representative and authorized  
27 agent of GMAC Mortgage and Defendants herein (the "Defendants"), in or around April 2007.  
28 In the course of their discussions ranging from April 2007 until June 2007, Defendants and Loan



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1 Consultant steered them into an Interest-Only ARM in the amount of \$400,000 with an interest  
2 rate at 6.000% for a term of 30 years. Little did Mr. and Mrs. Del Cid know, however, payments  
3 made during the first five years of their loan were Interest-Only. Mr. and Mrs. Del Cid were also  
4 not advised that their interest rate was "fixed" for two months and could adjust every month  
5 thereafter. The maximum interest rate is 9.950%. The loan was originated by GMAC, on the note  
6 and deed of trust the GMAC was identified as the lender, and GMAC is currently servicing the  
7 loan.

8 Defendants and Loan Consultant represented to Mr. and Mrs. Del Cid that their monthly  
9 payment would always be \$824.00. Although the amount of Mr. and Mrs. Del Cid's initial,  
10 disclosed monthly payment was \$824.00, Defendants and Loan Consultant failed to clarify their  
11 partially true representations and advise Mr. and Mrs. Del Cid that: (1) their monthly payment  
12 would not pay down any of their principal balance during the Interest-Only period, or (2) their  
13 monthly payment would drastically increase at the end of the Interest-Only period, or (3) the  
14 amount of their initial, disclosed monthly payment would not remain "fixed" for the entire term  
15 of his loan.

16 Defendants and Loan Consultant also explicitly represented to Mr. and Mrs. Del Cid that  
17 they could afford their loan and further represented that they could shoulder the additional  
18 financial burden of repaying their loan in consideration of their other existing debts; yet failed to  
19 disclose that the fully amortized monthly payment on the loan was \$1,718.44. Given Mr. and  
20 Mrs. Del Cid's true monthly income of \$1,916.66, this represents a "front-end" debt-to-income  
21 ratio, meaning a debt-to-income ratio, before any other debts are even considered, of over 89%-  
22 in excess of industry standard underwriting guidelines, and in excess of Defendants' own  
23 underwriting guidelines. Defendants and Loan Consultant further represented to Mr. and Mrs.  
24 Del Cid that they could rely on the assessment that they were "qualified" to mean that they could  
25 afford the loan. Because of Mr. and Mrs. Del Cid's lack of familiarity with how much debt a  
26 person can and should reasonably take on compared to their monthly income, and because Mr.  
27 and Mrs. Del Cid reasonably relied on Defendants' and Loan Consultant's expertise that any  
28 payment they were "qualified" for would take into account what the maximum debt a person



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1 such as Mr. and Mrs. Del Cid should be shouldering was, Mr. and Mrs. Del Cid reasonably  
2 believed Defendants' and Loan Consultant's representations that they could afford their loan and  
3 its payments.

4 Although Defendants and Loan Consultant represented to Mr. and Mrs. Del Cid that they  
5 were "qualified" for their loan and could afford their loan and its monthly payments, Defendants  
6 and Loan Consultant misled Mr. and Mrs. Del Cid into believing that their monthly payments  
7 would always only be \$824.00. Furthermore, at no point did Defendants or Loan Consultant  
8 clarify Mr. and Mrs. Del Cid's false belief and advise them that \$824.00 would not be their  
9 permanent payment under the loan, or that every time they made a monthly payment in the  
10 amount of \$824.00, they were not paying down any of their principal balance.

11 In addition, Defendants and Loan Consultant represented that appraisals conducted by or  
12 on behalf of Defendants were accurate and made in good faith. On or around May 2007, an  
13 appraisal company under the direct control and supervision of Defendants conducted an appraisal  
14 on Mr. and Mrs. Del Cid's home, which was fraudulently inflated to a grossly and intentionally  
15 overstated value. Defendants and Loan Consultant represented that, per appraisal, Mr. and Mrs.  
16 Del Cid's home was worth \$500,000.00 at the time they entered into their loan, and that such a  
17 valuation was a true and correct measure of their home's worth. The current fair market value of  
18 Mr. and Mrs. Del Cid's home is approximately \$247,367.00. Mr. and Mrs. Del Cid allege that  
19 the appraisal was artificially inflated, and that they have suffered damages in the amount of  
20 \$252,633.00 (\$500,000.00-\$247,367.00) due to a substantial loss of equity in their home as a  
21 result of Defendants' fraudulent inflation and other acts described herein.

22 Defendants and Loan Consultant also represented to Mr. and Mrs. Del Cid that they  
23 would be able to refinance their loan at a later time. Mr. and Mrs. Del Cid relied on this  
24 assurance in deciding to enter into the mortgage contract. However, Mr. and Mrs. Del Cid have  
25 not been able to refinance their loan. Defendants and Loan Consultant also represented that it  
26 would modify Mr. and Mrs. Del Cid's loan, and Mr. and Mrs. Del Cid relied on this  
27 representation in deciding to enter into the loan. However, Mr. and Mrs. Del Cid were unable to  
28 modify their loan.



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1 Furthermore, Defendants and Loan Consultant represented that: (1) Defendants were  
2 reputable and complied with industry standard underwriting guidelines and were engaged in  
3 lending of the highest caliber; (2) property appraisals done by Defendants were accurate and  
4 made in good faith; (3) Mr. and Mrs. Del Cid could afford the loan ; (4) they were “qualified” for  
5 their loan; (5) “qualified” meant that they could afford their loan; (6) they would be able to  
6 modify their loan; and (7) they would be able to refinance their loan.

7 Moreover, Defendants and Loan Consultant withheld or incompletely, inaccurately or  
8 otherwise improperly disclosed to Mr. and Mrs. Del Cid that: (1) Defendants and Loan  
9 Consultant knew that they could not and would not be able to afford their loan and that there was  
10 a very high probability that they would default and/or be foreclosed upon; (2) Defendants had an  
11 incentive to sell their loan, and did sell their loan at fraudulently inflated prices; (3) Defendants’  
12 and Loan Consultant’s “qualification” process was for Defendants’ own protection and not  
13 theirs; (4) that Defendants’ and Loan Consultant’s representations that they were “qualified” to  
14 pay their loan was not intended to communicate that they could actually “afford” the loan which  
15 they were being given; (5) Defendants had abandoned its conventional lending business, prudent  
16 lending standards, and industry standard underwriting guidelines; (6) Defendants influenced the  
17 appraiser to over-value Mr. and Mrs. Del Cid’s home to require them to borrow more money  
18 with the knowledge that the true value of Mr. and Mrs. Del Cid’s home was insufficient to justify  
19 the amount of Mr. and Mrs. Del Cid’s loan; or (7) Defendants knew that due to its scheme of  
20 fraudulently manipulating and inflating property values throughout the State of California that  
21 the real estate market would crash and Mr. and Mrs. Del Cid would lose substantial equity in  
22 their home.

23 Based on these misrepresentations and omissions, the material facts concerning Mr. and  
24 Mrs. Del Cid’s loan were concealed from them, and they decided to move forward with their  
25 loan. On June 26, 2007, Mr. and Mrs. Del Cid signed the loan and Deed of Trust, before a  
26 notary. Had they known the truth however, Mr. and Mrs. Del Cid would not have accepted the  
27 loan. As a result of Defendants’ fraudulent acts described throughout this complaint Mr. and  
28 Mrs. Del Cid have lost substantial equity in their home, have damaged or destroyed credit, and at



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1 the time Mr. and Mrs. Del Cid entered into the loan their home was worth \$500,000.00, now  
2 their home is worth approximately \$247,367.00. Mr. and Mrs. Del Cid did not discover any of  
3 these misrepresentations or omissions until after a consultation with legal counsel at Brookstone  
4 Law, and through a complete and thorough investigation of the loan documentation, and a  
5 discussion of the surrounding facts, the fraudulent acts of the Defendants, as described  
6 throughout this complaint, were brought to light on or around January 23, 2012.

7 22. Plaintiffs Mesbel Mohamoud and Michael Moultrie ("Mohamoud and Moultrie")  
8 discussed obtaining a mortgage to purchase their home located at 425 East Ellis Avenue,  
9 Inglewood, CA 90302 and A.P.N.: 4014-005-031 with a Loan Consultant, a representative and  
10 authorized agent of Metrocities Mortgage LLC, a correspondent lender of GMAC and  
11 Defendants herein (the "Defendants") and authorized by Defendants to lend on its behalf, in or  
12 around July 2006. In the course of their discussions ranging from July 2006 until September  
13 2006, Defendants and Loan Consultant steered them into an Interest-Only ARM in the amount of  
14 \$417,000.00 with an interest rate at 7.000% for a term of 30 years. Little did Mohamoud and  
15 Moultrie know, however, payments made during the first five years of their loan were Interest-  
16 Only. Mohamoud and Moultrie were also not advised that their interest rate was "fixed" for five  
17 years and could adjust every six months. The maximum interest rate is 13.000%. In addition,  
18 Defendants and Loan Consultant also steered Mohamoud and Moultrie into a 30-year fixed rate  
19 loan in the amount of \$112, 000.00. These loans were originated by GMAC, on the note and  
20 deed of trust Metrocities Mortgage LLC is identified as the lender, and GMAC is currently  
21 servicing the loan.

22 Defendants and Loan Consultant represented to Mohamoud and Moultrie that their  
23 monthly payment would always be \$2,437.50. Although the amount of Mohamoud and  
24 Moultrie's initial, disclosed monthly payment was \$2,437.50, Defendants and Loan Consultant  
25 failed to clarify their partially true representations and advise Mohamoud and Moultrie that: (1)  
26 their monthly payment would not pay down any of their principal balance during the Interest-  
27 Only period, or (2) their monthly payment would drastically increase at the end of the Interest-  
28 Only period, or (3) the amount of their initial, disclosed monthly payment would not remain



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1 “fixed” for the entire term of his loan.

2 Further, Defendants and Loan Consultant advised them that they were eligible for a Low  
3 Doc Loan. Unbeknownst to them at the time, Defendants and Loan Consultant used this low  
4 documentation requirement to fraudulently inflate their income; and in doing so, Defendants and  
5 Loan Consultant caused them to be placed into a loan whose payments they could not afford  
6 given their true, *un-inflated* monthly income. Defendants and Loan Consultant altered  
7 Mohamoud and Moultrie’s loan application without their knowing consent or authorization as  
8 Loan Consultant completed Mahomoud and Moultrie’s application without giving Mohamoud  
9 and Moultrie an opportunity to review the loan application.

10 Defendants and Loan Consultant also explicitly represented to Mohamoud and  
11 Moultrie that they could afford their loan and further represented that they could shoulder the  
12 additional financial burden of repaying their loan in consideration of their other existing debts;  
13 yet failed to disclose that the fully amortized monthly payment on the loan was \$2,774.31. Given  
14 Mohamoud and Moultrie’s true monthly income of \$4,500.00, this represents a “front-end” debt-  
15 to-income ratio, meaning a debt-to-income ratio, before any other debts are even considered, of  
16 over 62%- in excess of industry standard underwriting guidelines, and in excess of Defendants’  
17 own underwriting guidelines. Defendants and Loan Consultant further represented to Mohamoud  
18 and Moultrie that they could rely on the assessment that they were “qualified” to mean that they  
19 could afford the loan. Because of Mohamoud and Moultrie’s lack of familiarity with how much  
20 debt a person can and should reasonably take on compared to their monthly income, and because  
21 Mohamoud and Moultrie reasonably relied on Defendants’ and Loan Consultant’s expertise that  
22 any payment they were “qualified” for would take into account what the maximum debt a person  
23 such as Mohamoud and Moultrie should be shouldering was, Mohamoud and Moultrie  
24 reasonably believed Defendants’ and Loan Consultant’s representations that they could afford  
25 their loan and its payments.

26 Although Defendants and Loan Consultant represented to Mohamoud and Moultrie that  
27 they were “qualified” for their loan and could afford their loan and its monthly payments,  
28 Defendants and Loan Consultant misled Mohamoud and Moultrie into believing that their



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1 monthly payments would always only be \$2,432.50. Furthermore, at no point did Defendants or  
2 Loan Consultant clarify Mohamoud and Moultrie's false belief and advise them that \$2,432.50  
3 would not be their permanent payment under the loan, or that every time they made a monthly  
4 payment in the amount of \$2,432.50, they were not paying down any of their principal balance.

5 In addition, Defendants and Loan Consultant represented that appraisals conducted by or  
6 on behalf of Defendants were accurate and made in good faith. On or around August 27, 2006,  
7 an appraisal company under the direct control and supervision of Defendants conducted an  
8 appraisal on Mohamoud and Moultrie's home, which was fraudulently inflated to an  
9 intentionally overstated value. Defendants and Loan Consultant represented that, per appraisal,  
10 Mohamoud and Moultrie's home was worth \$529,000.00 at the time they entered into their loan,  
11 and that such a valuation was a true and correct measure of their home's worth. The current fair  
12 market value of Mohamoud's and Moultrie's home is approximately \$164,383.00. Mohamoud  
13 and Moultrie allege that the appraisal was artificially inflated, and that they have suffered  
14 damages in the amount of \$364,617.00 (\$529,000.00-\$164,383.00) due to a substantial loss of  
15 equity in their home as a result of Defendants' fraudulent inflation and other acts described  
16 herein.

17 Defendants and Loan Consultant also represented to Mohamoud and Moultrie that they  
18 would be able to refinance their loan at a later time. Mohamoud and Moultrie relied on this  
19 assurance in deciding to enter into the mortgage contract. However, Mohamoud and Moultrie  
20 have not been able to refinance their loan because their modest income was insufficient to justify  
21 the size of the loan. Defendants and Loan Consultant also represented that it would modify  
22 Mohamoud and Moultrie's loan, and Mohamoud and Moultrie relied on this representation in  
23 deciding to enter into the loan.

24 Mohamoud and Moultrie suffered from extreme financial hardship because their family  
25 business went down due to the economic crisis that hit hard the entire country hard. Being unable  
26 to afford their loan, Mohamoud and Moultrie applied for a loan modification under HAMP with  
27 Defendants. Mohamoud and Moultrie were put in a three-month "Trial Payment Plan" in which  
28 Defendants promised that if Mohamoud and Moultrie made timely trial payments, Defendants



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1 would permanently modify their loan. During the course of the trial period, Mohamoud and  
2 Moultrie complied with every term that Defendant requested such as making monthly payments  
3 timely and submitting requested documents. However, near the end of the trial period Defendant  
4 sent Mohamoud and Moultrie a denial letter for a modification because Defendants claimed that  
5 Mohamoud and Moultrie failed to submit sufficient loan modification documents.

6 Desperate to save their home, Mohamoud and Moultrie from 2008 until 2010 never  
7 stopped applying for a regular loan modification. After several attempts, in November 2010,  
8 Defendants offered Mohamoud and Moultrie a permanent loan modification, but the offer  
9 remained effective for only five days, which was close to the sale date on the Notice of Sale.  
10 Without any choices, Mohamoud and Moultrie accepted the permanent loan modification in  
11 which Defendants did not reduce the unpaid principal balance on the loan. In addition, the  
12 monthly payment under the modification was only less than the original payment by less than  
13 \$100.00. Since modified mortgage payment did not relieve Mohamoud and Moultrie's mortgage  
14 responsibility, they decided to appeal Defendants' denial of their HAMP application. However,  
15 Defendants refused to consider the matter for Mohamoud and Moultrie. As of now Mohamoud  
16 and Moultrie have not been able to modify their loan.

17 Furthermore, Defendants and Loan Consultant represented that: (1) Defendants were  
18 reputable and complied with industry standard underwriting guidelines and were engaged in  
19 lending of the highest caliber; (2) property appraisals done by Defendants were accurate and  
20 made in good faith; (3) Mohamoud and Moultrie could afford the loan; (4) they were "qualified"  
21 for their loan; (5) "qualified" meant that they could afford their loan; (6) Defendants would  
22 modify their loan in the future; and (7) they would be able to refinance their loan in the future.

23 Moreover, Defendants and Loan Consultant withheld or incompletely, inaccurately or  
24 otherwise improperly disclosed to Mohamoud and Moultrie that: (1) Defendants and Loan  
25 Consultant knew that they could not and would not be able to afford their loan and that there was  
26 a very high probability that they would default and/or be foreclosed upon; (2) Defendants had an  
27 incentive to sell their loan, and did sell their loan at fraudulently inflated prices; (3) Defendants'  
28 and Loan Consultant's "qualification" process was for Defendants' own protection and not



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1 theirs; (4) that Defendants' and Loan Consultant's representations that they were "qualified" to  
2 pay their loan was not intended to communicate that they could actually "afford" the loan which  
3 they were being given; (5) Defendants had abandoned its conventional lending business, prudent  
4 lending standards, and industry standard underwriting guidelines; (6) Defendants influenced the  
5 appraiser to over-value Mohamoud and Moultrie's home to require them to borrow more money  
6 with the knowledge that the true value of Mohamoud and Moultrie's home was insufficient to  
7 justify the amount of Mohamoud and Moultrie's loan; or (7) Defendants knew that due to its  
8 scheme of fraudulently manipulating and inflating property values throughout the State of  
9 California that the real estate market would crash and Mohamoud and Moultrie would lose  
10 substantial equity in their home.

11 Based on these misrepresentations and omissions, the material facts concerning  
12 Mohamoud and Moultrie's loan were concealed from them, and they decided to move forward  
13 with their loan. On September 18, 2006, Mohamoud and Moultrie signed the loan and Deed of  
14 Trust, before a notary. Had they known the truth however, Mohamoud and Moultrie would not  
15 have accepted the loan. As a result of Defendants' fraudulent acts described throughout this  
16 complaint Mohamoud and Moultrie have lost substantial equity in their home, have damaged or  
17 destroyed credit, and at the time Mohamoud and Moultrie entered into the loan their home was  
18 worth \$529,000.00, now their home is worth approximately \$164,383.00. Mohamoud and  
19 Moultrie did not discover any of these misrepresentations or omissions until after a consultation  
20 with legal counsel at Brookstone Law, and through a complete and thorough investigation of the  
21 loan documentation, and a discussion of the surrounding facts, the fraudulent acts of the  
22 Defendants, as described throughout this complaint, were brought to light on or around January  
23 27, 2012. (True and correct copy of the aforementioned documents are attached hereto as *Exhibit*  
24 *15*).

25 23. Plaintiffs Willie Gilmore ("Gilmore") and Phyllis McCrea ("McCrea") discussed  
26 obtaining a mortgage to purchase their home located at 13844 Dellbrook Street, Corona, CA  
27 92880 and A.P.N.: 130-443-016 with a Loan Consultant ("Loan Consultant") with Impac  
28 Funding Corporation, a correspondent of GMAC and the Defendants herein (the "Defendants")



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1 and authorized by Defendants to lend on its behalf, in or around June 2006. In the course of their  
2 discussions ranging from June 2006 until August 2006, Loan Consultant and Defendants steered  
3 them into an ARM balloon 40/30 loan in the amount of \$580,000.00 with the interest rate at  
4 6.900% for a term of 30 years. Little did Gilmore and Mccrea know, however, the loan was  
5 amortized over 40 years, but payable in 30 years with a balloon payment. In addition, Defendants  
6 and Loan Consultant steered them into a "piggy-bank" loan in the amount \$145,000.00 for a  
7 term of 15 years. These loans were originated by GMAC, on the note and deed of trust Impac  
8 Funding Corporation is identified as the lender, and the loan is currently being serviced by  
9 GMAC.

10 Further, Defendants and Loan Consultant advised them that they were eligible for a Low  
11 Doc Loan. Unbeknownst to them at the time, Defendants and Loan Consultant used this low  
12 documentation requirement to fraudulently inflate their income; and in doing so, Defendants and  
13 Loan Consultant caused them to be placed into a loan whose payments they could not afford  
14 given their true, *un-inflated* monthly income. Defendants and Loan Consultant altered Gilmore  
15 and Mccrea's loan application without their knowing consent or authorization as Loan  
16 Consultant completed Gilmore and Mccrea's application without giving Gilmore and Mccrea an  
17 opportunity to review the loan application.

18 Defendants and Loan Consultant explicitly represented to Gilmore and Mccrea that they  
19 could afford their loan; and further represented that they could shoulder the additional financial  
20 burden of repaying their loan in consideration of their other existing debts. Defendants and Loan  
21 Consultant also represented to them that they could afford a \$3,562.25 monthly payment on the  
22 first loan along with a \$1,200.00 monthly payment on the "piggy-back" loan. Given Gilmore and  
23 Mccrea's true monthly income of \$11,000.00, this represents a "front-end" debt-to-income ratio,  
24 meaning a debt-to-income ratio, before any other debts are even considered, of over 43%.  
25 Defendants and Loan Consultant further represented to Gilmore and Mccrea that they could rely  
26 on the assessment that they were "qualified" to mean that they could afford the loan. Because of  
27 Gilmore and Mccrea's lack of familiarity with how much debt a person can and should  
28 reasonably take on compared to their monthly income, and because Gilmore and Mccrea



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1 reasonably relied on Defendants' and Loan Consultant's expertise that any payment they were  
2 "qualified" for would take into account what the maximum debt a person such as Gilmore and  
3 Mccrea should be shouldering was, Gilmore and Mccrea reasonably believed Defendants' and  
4 Loan Consultant's representations that they could afford their loan and its payments.

5 In addition, Defendants and Loan Consultant represented that appraisals conducted by or  
6 on behalf of Defendants were accurate and made in good faith. On or around July 13, 2006, an  
7 appraisal company under the direct control and supervision of Defendants conducted an appraisal  
8 on Gilmore and Mccrea's home, which was fraudulently inflated an intentionally overstated  
9 value. The current fair market value of Gilmore and Mccrea's home is approximately  
10 \$291,550.00. Gilmore and Mccrea allege that the appraisal was artificially inflated, and that they  
11 have suffered damages due to a substantial loss of equity in their home as a result of Defendants'  
12 fraudulent inflation and other acts described herein.

13 Defendants and Loan Consultant also represented to Gilmore and Mccrea that they would  
14 be able to refinance their loan at a later time. Gilmore and Mccrea relied on this assurance in  
15 deciding to enter into the mortgage contract. However, Gilmore and Mccrea have not been able  
16 to refinance their loan.

17 Furthermore, Defendants and Loan Consultant represented that: (1) Defendants were  
18 reputable and complied with industry standard underwriting guidelines and were engaged in  
19 lending of the highest caliber; (2) property appraisals done by Defendants were accurate and  
20 made in good faith; (3) Gilmore and Mccrea could afford the loan; (4) they were "qualified" for  
21 their loan; (5) "qualified" meant that they could afford their loan; (6) Defendants would modify  
22 their loan in the future; and (7) they would be able to refinance their loan in the future.

23 Moreover, Defendants and Loan Consultant withheld or incompletely, inaccurately or  
24 otherwise improperly disclosed to Gilmore and Mccrea that: (1) Defendants and Loan Consultant  
25 knew that they could not and would not be able to afford their loan and that there was a very high  
26 probability that they would default and/or be foreclosed upon; (2) Defendants had an incentive to  
27 sell their loan, and did sell their loan at fraudulently inflated prices; (3) Defendants' and Loan  
28 Consultant's "qualification" process was for Defendants' own protection and not theirs; (4) that



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1 Defendants' and Loan Consultant's representations that they were "qualified" to pay their loan  
2 was not intended to communicate that they could actually "afford" the loan which they were  
3 being given; (5) Defendants had abandoned its conventional lending business, prudent lending  
4 standards, and industry standard underwriting guidelines; (6) Defendants influenced the  
5 appraiser to over-value Gilmore and Mccrea's home to require them to borrow more money with  
6 the knowledge that the true value of Gilmore and Mccrea's home was insufficient to justify the  
7 amount of Gilmore and Mccrea's loan; or (7) Defendants knew that due to its scheme of  
8 fraudulently manipulating and inflating property values throughout the State of California that  
9 the real estate market would crash and Gilmore and Mccrea would lose substantial equity in their  
10 home.

11 Based on these misrepresentations, the material facts concerning Gilmore and Mccrea's  
12 loan were concealed from them, and they decided to move forward with their loan. On August 3,  
13 2006, Gilmore and Mccrea signed the loan and Deed of Trust, before a notary. Had they known  
14 the truth however, Gilmore and Mccrea would not have accepted the loan. As a result of  
15 Defendants' fraudulent acts described throughout this complaint Gilmore and Mccrea have lost  
16 substantial equity in their home, have damaged or destroyed credit, and at the time Gilmore and  
17 Mccrea entered into the loan their home was worth substantially higher than the current market  
18 then, now their home is worth approximately \$291,550.00. Gilmore and Mccrea did not discover  
19 any of these misrepresentations until after a consultation with legal counsel at Brookstone Law,  
20 and through a complete and thorough investigation of the loan documentation, and a discussion  
21 of the surrounding facts, the fraudulent acts of the Defendants, as described throughout this  
22 complaint, were brought to light on or around February 15, 2012.

23 24. Plaintiff Cecilia Chaube ("Chaube") discussed obtaining a mortgage to purchase  
24 her home located at 2617 Ranchwood Drive, Brentwood, CA 94513 and A.P.N.: 007-350-019-  
25 with a Loan Consultant ("Loan Consultant"), a representative and authorized agent of Paul  
26 Financial LLC., a correspondent lender of GMAC and Defendants herein (the "Defendants")  
27 and authorized by Defendants to lend on its behalf, in or around August 2006. In the course of  
28 their discussions ranging from August 2006 until October 2006, Defendants and Loan Consultant



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1 steered her into a negatively amortized PayOption ARM in the amount of \$516,000.00 with an  
2 interest rate at 7.125% for a term of 40 years. Little did Chaube know, however, her minimum  
3 payment was based on the interest rate at 1.375%, and the true interest accruing on her loan was  
4 7.125%. The true interest rate of 7.125% was "fixed" for five years and could adjust every six  
5 months thereafter. The maximum interest rate is 12.125%. The amount of Chaube's minimum  
6 monthly payment was "fixed" for five years or until the minimum payments reaches the recast  
7 point of the loan of 115%, whichever occurs first. When the amount of the minimum monthly  
8 payment is insufficient to cover the amount of interest due, then the amount of that deficiency is  
9 added onto the unpaid principal balance of her loan. In addition, after the first five years or upon  
10 the recast point of the loan, Chaube is obligate to make interest-only payments on the loan. This  
11 loan was originated by GMAC, on the note and deed of trust Paul Financial LLC was identified  
12 as the lender, and the loan is being serviced by GMAC.

13 Defendants and Loan Consultant represented to Chaube that her monthly payment would  
14 always be \$1,398.19. Although the amount of Chaube's initial, disclosed minimum monthly  
15 payment was \$1,398.19, Defendants and Loan Consultant failed to clarify their partially true  
16 representations and advise Chaube: (1) how the interest rate on her loan was calculated; (2) that  
17 the initial, disclosed minimum monthly payment of \$1,398.19 would not always be available; (3)  
18 that the initial, disclosed minimum monthly payment would not be the permanent payment under  
19 the loan despite Defendants' and Loan Consultant's affirmative representations to the contrary;  
20 (4) that by paying the initial, disclosed minimum monthly payment she would be definitively  
21 deferring interest on her loan, increasing the principal balance of her loan every time she made  
22 the minimum monthly payment; (5) that by paying the minimum monthly payment the principal  
23 balance of her loan was certain to increase; or (6) her loan would be recast within a few years  
24 and she would be forced to pay considerably higher payments.

25 The disclosures in Chaube's loan documents discussing negative amortization only frame  
26 negative amortization as a mere **possibility** rather than a **certainty** when making the minimum  
27 payment. However, the reality was that by making the minimum payment, negative amortization  
28 was a *certainty*. Indeed, the payment schedule set forth in the Truth in Lending Disclosure



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1 Statement ("TILDS"), which set forth what appeared to be the *required* payment schedule, fails  
2 to disclose that making payments pursuant to the TILDS payment schedule *will* result in negative  
3 amortization. Chaube was not provided, before entering into the loans, with any other payment  
4 schedule or with any informed option to make payments different than those listed in the TILDS  
5 payment schedule. Had Defendants disclosed that by making the payment pursuant to the TILDS  
6 Chaube would be deferring interest, or had Defendants disclosed the payment amounts sufficient  
7 to avoid negative amortization from occurring, Chaube would not have entered into the loan.

8 **Defendants intentionally omitted a clear disclosure of the nature of Chaube's loan because**  
9 **giving a clear explanation of how the loan worked would have punctured the illusion of a**  
10 **low-payment, low interest rate loan.**

11 Further, Defendants and Loan Consultant advised her that she was eligible for a Low Doc  
12 Loan. Unbeknownst to her at the time, Defendants and Loan Consultant used this low  
13 documentation requirement to fraudulently inflate her income by \$12,284.00, a factor of 294%;  
14 and in doing so, Defendants and Loan Consultant caused her to be placed into a loan whose  
15 payments she could not afford given her true, *un-inflated* monthly income. Defendants and Loan  
16 Consultant altered Chaube's loan application without her knowing consent or authorization as  
17 Loan Consultant completed Chaube's application without giving Chaube an opportunity to  
18 review the loan application.

19 Defendants and Loan Consultant also explicitly represented to Chaube that she could  
20 afford her loan and further represented that she could shoulder the additional financial burden of  
21 repaying her loan in consideration of her other existing debts; yet failed to disclose that the fully  
22 amortized monthly payment on the loan was \$3,476.39. Given Chaube's true monthly income of  
23 \$4,166.00, this represents a "front-end" debt-to-income ratio, meaning a debt-to-income ratio,  
24 before any other debts are even considered, of over 83%- in excess of industry standard  
25 underwriting guidelines, and in excess of Defendants' own underwriting guidelines. Defendants  
26 and Loan Consultant further represented to Chaube that she could rely on the assessment that she  
27 was "qualified" to mean that she could afford the loan. Because of Chaube's lack of familiarity  
28 with how much debt a person can and should reasonably take on compared to her monthly



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1 income, and because Chaube reasonably relied on Defendants' and Loan Consultant's expertise  
2 that any payment she was "qualified" for would take into account what the maximum debt a  
3 person such as Chaube should be shouldering was, Chaube reasonably believed Defendants' and  
4 Loan Consultant's representations that she could afford her loan and its payments.

5 Although Defendants and the Loan Consultant represented to Chaube that she was  
6 "qualified" for her loan and could afford her loan and its monthly payments, Defendants and the  
7 Loan Consultant misled Chaube into believing that her monthly payments would always only be  
8 \$1,398.19. Furthermore, at no point did Defendants or Loan Consultant clarify Chaube's false  
9 belief and advise her that \$1,398.19 would not be her permanent payment under the loan, or that  
10 every time she made a monthly payment in the amount of \$1,398.19, which is less than interest  
11 only, she would be deferring interest on her loan, increasing the principal balance of her loan.

12 In addition, Defendants and Loan Consultant represented that appraisals conducted by or  
13 on behalf of Defendants were accurate and made in good faith. On or around October 4, 2006, an  
14 appraisal company under the direct control and supervision of Defendants conducted an appraisal  
15 on Chaube's home, which was fraudulently inflated to an intentionally overstated value.  
16 Chaube's loan documentation indicates that her home was worth \$720,000.00 at the time they  
17 entered into their loan. The current fair market value of Chaube's home is approximately  
18 \$258,917.00. Chaube alleges that the appraisal was artificially inflated, and that she has suffered  
19 damages in the amount of \$461,083.00 (\$720,000.00-\$258,917.00) due to a substantial loss of  
20 equity in her home as a result of Defendants' fraudulent inflation and other acts described herein.

21 Defendants and Loan Consultant also represented that it would modify Chaube's loan,  
22 and Chaube relied on this representation in deciding to enter into the loan. In addition, Chaube  
23 was advised by a representative of Defendants, to stop making payments in order to be eligible  
24 for a modification. Chaube relied on Defendants' and Defendants' representative's advice and  
25 stopped making her monthly payments causing her to fall even further behind. However, Chaube  
26 was unable to permanently modify her loan although she had complied with every term during  
27 the trial modification period.

28 In addition, the foreclosure against Chaube was wrongful. The assignment deed of trust



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1 (recorded June 27, 2012) noted MERS as the party assigning the beneficiary interest in the  
2 property in its individual capacity to the foreclosing party (Central Mortgage Company).  
3 However, under California law MERS is only a nominee acting on behalf of the true beneficiary,  
4 and cannot initiate foreclosure in its own name. MERS can only act when acting in its nominal  
5 capacity. Here, MERS assigned the interest in the Deed of Trust to Central Mortgage Company  
6 in its own name, rendering the ADOT void. Accordingly, Central Mortgage Company was never  
7 properly assigned the beneficiary interest as a foreclosing beneficiary of the Deed. Therefore,  
8 any subsequent recorded documents based on that assignment in order to move forward with the  
9 foreclosure sale would be void as well. Moreover, the foreclosure against Chaube was wrongful  
10 because at the time the NOD was recorded (recorded June 27, 2012), the foreclosing trustee  
11 (Trustee Corps) did not have the legal authority to initiate the foreclosure because the foreclosing  
12 trustee was never properly substituted as trustee. The original trustee under the Deed of Trust  
13 (recorded October 25, 2006) was Foundation Conveying, LLC.

14 Furthermore, Defendants and Loan Consultant represented that: (1) Defendants were  
15 reputable and complied with industry standard underwriting guidelines and were engaged in  
16 lending of the highest caliber; (2) property appraisals done by Defendants were accurate and  
17 made in good faith; (3) Chaube could afford the loan; (4) she was "qualified" for her loan; (5)  
18 "qualified" meant that she could afford her loan; (6) Defendants would modify her loan in the  
19 future; and (7) she would be able to refinance her loan in the future.

20 Moreover, Defendants and Loan Consultant withheld or incompletely, inaccurately or  
21 otherwise improperly disclosed to Chaube that: (1) Defendants and Loan Consultant knew that  
22 she could not and would not be able to afford her loan and that there was a very high probability  
23 that she would default and/or be foreclosed upon; (2) Defendants had an incentive to sell her  
24 loan, and did sell her loan at fraudulently inflated prices; (3) Defendants' and Loan Consultant's  
25 "qualification" process was for Defendants' own protection and not hers; (4) that Defendants'  
26 and Loan Consultant's representations that she was "qualified" to pay her loan was not intended  
27 to communicate that she could actually "afford" the loan which she was being given; (5)  
28 Defendants had abandoned its conventional lending business, prudent lending standards, and



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1 industry standard underwriting guidelines; (6) Defendants influenced the appraiser to over-value  
2 Chaube's home to require them to borrow more money with the knowledge that the true value of  
3 Chaube's home was insufficient to justify the amount of Chaube's loan; or (7) Defendants knew  
4 that due to its scheme of fraudulently manipulating and inflating property values throughout the  
5 State of California that the real estate market would crash and Chaube would lose substantial  
6 equity in her home.

7 Based on these misrepresentations and omissions, the material facts concerning Chaube's  
8 loan were concealed from her, and she decided to move forward with her loan. On October 25,  
9 2006, Chaube signed the loan and Deed of Trust, before a notary. Had she known the truth  
10 however, Chaube would not have accepted the loan. As a result of Defendants' fraudulent acts  
11 described throughout this complaint Chaube has lost substantial equity in her home, has damaged  
12 or destroyed credit, and at the time Chaube entered into the loan her home was worth  
13 \$720,000.00, now her home is worth approximately \$258,917.00. Chaube did not discover any  
14 of these misrepresentations or omissions until after a consultation with legal counsel at  
15 Brookstone Law, and through a complete and thorough investigation of the loan documentation,  
16 and a discussion of the surrounding facts, the fraudulent acts of the Defendants, as described  
17 throughout this complaint, were brought to light on or around April 13, 2012. (True and correct  
18 copy of the aforementioned documents are attached hereto as *Exhibit 16*).

19 25. Plaintiff Magdalena Avila ("Avila") discussed obtaining a mortgage to purchase  
20 her home located at 1015 Via Carmelita, Burbank, CA 91501 and A.P.N.: 5618-008-005 with a  
21 Loan Consultant ("Loan Consultant"), a representative and authorized agent of Accredited Home  
22 Lender, a correspondent lender of GMAC and Defendants herein (the "Defendants") and  
23 authorized by Defendants to lend on its behalf, in or around January 2005. In the course of their  
24 discussions ranging from January 2005 until March 2005, Defendants and Loan Consultant  
25 advised her to enter a 30/40 balloon ARM loan in the amount of \$742,500.00 with the interest  
26 rate at 9.99%, and the maximum interest rate was 16.99%. Little did Avila know, however, the  
27 loan was amortized over 40 years, but payable in 30 years with a balloon payment. This loan was  
28 originated by GMAC, on the noted and deed of trust Accredited Home Lender is identified as the



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1 lender, and the loan is currently being serviced by GMAC.

2 Further, Defendants and Loan Consultant advised her that she was eligible for a Low Doc  
3 Loan. Unbeknownst to her at the time, Defendants and Loan Consultant used this low  
4 documentation requirement to fraudulently inflate her income; and in doing so, Defendants and  
5 Loan Consultant caused her to be placed into a loan whose payments she could not afford given  
6 her true, *un-inflated* monthly income. Defendants and Loan Consultant altered Avila's loan  
7 application without her knowing consent or authorization as Loan Consultant completed Avila's  
8 application without giving Avila an opportunity to review the loan application.

9 Defendants and Loan Consultant explicitly represented to Avila that she could afford her  
10 loan; and further represented that she could shoulder the additional financial burden of repaying  
11 her loan in consideration of her other existing debts. Defendants and Loan Consultant also  
12 represented to her that she could afford a \$6,299.00 monthly payment; yet failed to disclose that  
13 the fully amortized monthly payment over a 30-year term on the loan was \$6,510.00. Given  
14 Avila's true monthly income of \$7,000.00, this represents a "front-end" debt-to-income ratio,  
15 meaning a debt-to-income ratio, before any other debts are even considered, of over 93%- in  
16 excess of industry standard underwriting guidelines, and in excess of Defendants' own  
17 underwriting guidelines. Defendants and Loan Consultant further represented to Avila that she  
18 could rely on the assessment that she was "qualified" to mean that she could afford the loan.  
19 Because of Avila's lack of familiarity with how much debt a person can and should reasonably  
20 take on compared to her monthly income, and because Avila reasonably relied on Defendants'  
21 and Loan Consultant's expertise that any payment she was "qualified" for would take into  
22 account what the maximum debt a person such as Avila should be shouldering was, Avila  
23 reasonably believed Defendants' and Loan Consultant's representations that she could afford her  
24 loan and its payments.

25 In addition, Defendants and Loan Consultant represented that appraisals conducted by or  
26 on behalf of Defendants were accurate and made in good faith. On July 9, 2005, an appraisal  
27 company under the direct control and supervision of Defendants conducted an appraisal on  
28 Avila's home to \$825,000.00 – a grossly and intentionally overstated value. The current fair



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1 market value of Avila's home is approximately \$384,200.00. Avila alleges that the appraisal was  
2 artificially inflated, and that she has suffered damages in the amount of \$440,800.00  
3 (\$825,000.00-\$384,200.00) due to a substantial loss of equity in her home as a result of  
4 Defendants' fraudulent inflation and other acts described herein.

5 Defendants and Loan Consultant also represented to Avila that she would be able to  
6 refinance her loan at a later time. Avila relied on this assurance in deciding to enter into the  
7 mortgage contract. However, Avila has not been able to refinance her loan. Defendants and Loan  
8 Consultant also represented that it would modify Avila's loan, and Avila relied on this  
9 representation in deciding to enter into the loan. However, Avila has not yet been able to modify  
10 her loan with Defendants.

11 The foreclosure against Avila was wrongful because the ADOT (recorded June 29, 2011)  
12 notes MERS as the party assigning the beneficiary interest in the property in its individual  
13 capacity to the foreclosing party (the Bank of New York Mellon Trust Company). However,  
14 under California law MERS is only a nominee acting on behalf of the true beneficiary, and  
15 cannot initiate foreclosure in its own name. MERS can only act when acting in its nominal  
16 capacity. Here, MERS assigned the interest in the Deed of Trust to Bank of New York Mellon  
17 Trust Company in its own name, rendering its ADOT void. Accordingly, Bank of New York  
18 Mellon Trust Company was never properly assigned the beneficiary interest as a foreclosing  
19 beneficiary of the Deed. Therefore, any subsequent recorded documents based on that  
20 assignment in order to move forward with the foreclosure sale would be ineffective as well.  
21 Therefore, since the assignment of deed of trust from MERS to the foreclosing party (the Bank  
22 of New York Mellon Trust Company) was void, it will render any subsequent transactions based  
23 on that assignment such as NOD, as here, would be void ab initio.

24 Furthermore, Defendants and Loan Consultant represented that: (1) Defendants were  
25 reputable and complied with industry standard underwriting guidelines and were engaged in  
26 lending of the highest caliber; (2) property appraisals done by Defendants were accurate and  
27 made in good faith; (3) Avila could afford the loan; (4) she was "qualified" for her loan; (5)  
28 "qualified" meant that she could afford her loan; (6) Defendants would modify her loan in the



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1 future; and (7) she would be able to refinance her loan in the future.

2 Moreover, Defendants and Loan Consultant withheld or incompletely, inaccurately or  
3 otherwise improperly disclosed to Avila that: (1) Defendants and Loan Consultant knew that she  
4 could not and would not be able to afford her loan and that there was a very high probability that  
5 she would default and/or be foreclosed upon; (2) Defendants had an incentive to sell her loan,  
6 and did sell her loan at fraudulently inflated prices; (3) Defendants' and Loan Consultant's  
7 "qualification" process was for Defendants' own protection and not hers; (4) that Defendants'  
8 and Loan Consultant's representations that she was "qualified" to pay her loan was not intended  
9 to communicate that she could actually "afford" the loan which she was being given; (5)  
10 Defendants had abandoned its conventional lending business, prudent lending standards, and  
11 industry standard underwriting guidelines; (6) Defendants influenced the appraiser to over-value  
12 Avila's home to require her to borrow more money with the knowledge that the true value of  
13 Avila's home was insufficient to justify the amount of Avila's loan; or (7) Defendants knew that  
14 due to its scheme of fraudulently manipulating and inflating property values throughout the State  
15 of California that the real estate market would crash and Avila would lose substantial equity in  
16 her home.

17 Based on these misrepresentations, the material facts concerning Avila's loan were  
18 concealed from her, and she decided to move forward with her loan. On October 24, 2005, Avila  
19 signed the loan and Deed of Trust, before a notary. Had she known the truth however, Avila  
20 would not have accepted the loan. As a result of Defendants' fraudulent acts described  
21 throughout this complaint Avila has lost substantial equity in her home, has damaged or  
22 destroyed credit, and at the time Avila entered into the loan her home was worth \$825,000.00,  
23 now her home is worth approximately \$384,200.00. Avila did not discover any of these  
24 misrepresentations until after a consultation with legal counsel at Brookstone Law, and through a  
25 complete and thorough investigation of the loan documentation, and a discussion of the  
26 surrounding facts, the fraudulent acts of the Defendants, as described throughout this complaint,  
27 were brought to light on or around March 28, 2011. (True and correct copy of the  
28 aforementioned documents are attached hereto as *Exhibit 17*).



**APPENDIX A TO AMENDED COMPLAINT IN SUPPORT OF AMENDED PROOF OF CLAIM**

1           26.     Plaintiffs Gricelda Ruano (“Ruano”) and Elisa Jordan (“Jordan”) discussed  
2 refinancing an existing mortgage on their home located at 170 East Street Unit D9, Chula Vista,  
3 CA 91910 and A.P.N.: 569-010-09-34 with a loan consultant (the “Loan Consultant”), and  
4 representative and authorized agent of GMAC and the Defendants herein (the “Defendants”), in  
5 or around April 2003. In the course of their discussions ranging from April 2003 until June 2003,  
6 Defendants and Loan Consultant steered them into a loan of which the Defendants and Loan  
7 Consultant concealed and inaccurately, incompletely or otherwise improperly disclosed the  
8 material terms and information concerning the loan. This loan was originated by GMAC, on the  
9 note and deed of trust GMAC is identified as the lender, and GMAC is currently servicing the  
10 loan.

11           Defendants and Loan Consultant explicitly represented to Ruano and Jordan that they  
12 could afford their loan; and further represented that they could shoulder the additional financial  
13 burden of repaying their loan in consideration of their other existing debts. Loan Consultant and  
14 Defendants further represented to Ruano and Jordan that they could rely on the assessment that  
15 they were “qualified” to mean that they could afford the loan. Because of Ruano and Jordan’s  
16 lack of familiarity with how much debt a person can and should reasonably take on compared to  
17 their monthly income, and because Ruano and Jordan reasonably relied on Defendants’ and Loan  
18 Consultant’s expertise that any payment they were “qualified” for would take into account what  
19 the maximum debt a person such as Ruano and Jordan should be shouldering was, Ruano and  
20 Jordan reasonably believed Defendants’ and Loan Consultant’s representations that they could  
21 afford their loan and its payments.

22           In addition, Defendants and Loan Consultant represented that appraisals conducted by or  
23 on behalf of Defendants were accurate and made in good faith. An appraisal company under the  
24 direct control and supervision of Defendants conducted an appraisal on Ruano and Jordan’s  
25 home, which was fraudulently inflated to an intentionally overstated value. Ruano and Jordan  
26 allege that the appraisal was artificially inflated, and that they have suffered damages due to a  
27 substantial loss of equity in their home as a result of Defendants’ fraudulent inflation and other  
28 acts described herein.



**APPENDIX A TO AMENDED COMPLAINT IN SUPPORT OF AMENDED PROOF OF CLAIM**

1           Loan Consultant and Defendants also represented to Ruano and Jordan that they would  
2 be able to refinance their loan at a later time. Ruano and Jordan relied on this assurance in  
3 deciding to enter into the mortgage contract. However, Ruano and Jordan have not been able to  
4 refinance their loan. Loan Consultant and Defendants also represented that it would modify  
5 Ruano and Jordan's loan, and Ruano and Jordan relied on this representation in deciding to enter  
6 into the loan. In addition, Ruano and Jordan were advised by a representative and authorized  
7 agent of Defendants to stop making payments in order to be eligible for a modification. Ruano  
8 and Jordan relied on the Defendants' and the Defendants representative and authorized agents'  
9 advice and stopped making their monthly payments causing them to fall even further behind.  
10 However, Ruano and Jordan were unable to modify their loan and Defendants wrongfully  
11 foreclosed on their home.

12           Furthermore, Loan Consultant and Defendants represented that: (1) Defendants were  
13 reputable and complied with industry standard underwriting guidelines and were engaged in  
14 lending of the highest caliber; (2) property appraisals done by Defendants were accurate and  
15 made in good faith; (3) Ruano and Jordan could afford the loan; (4) They were "qualified" for  
16 their loan; (5) "qualified" meant that they could afford their loan; (6) They would be able to  
17 modify their loan in the future; and (7) They would be able to refinance their loan in the future.

18           Moreover, Loan Consultant and Defendants withheld or incompletely, inaccurately or  
19 otherwise improperly disclosed to Ruano and Jordan that: (1) Loan Consultant and Defendants  
20 knew that they could not and would not be able to afford their loan and that there was a very high  
21 probability that they would default and/or be foreclosed upon; (2) Defendants had an incentive to  
22 sell their loan, and did sell their loan at fraudulently inflated prices; (3) Loan Consultant's and  
23 Defendants' "qualification" process was for Defendants' own protection and not theirs; (4) That  
24 Loan Consultant's and Defendants' representations that they were "qualified" to pay their loan  
25 was not intended to communicate that they could actually "afford" the loan which they was  
26 being given; (5) Defendants had abandoned its conventional lending business, prudent lending  
27 standards, and industry standard underwriting guidelines; (6) Defendants influenced the  
28 appraiser to over-value Ruano's and Jordan's home to require them to borrow more money with



**APPENDIX A TO AMENDED COMPLAINT IN SUPPORT OF AMENDED PROOF OF CLAIM**

1 the knowledge that the true value of Ruano and Jordan's home was insufficient to justify the  
2 amount of Ruano's and Jordan's loan; or (7) Defendants knew that due to its scheme of  
3 fraudulently manipulating and inflating property values throughout the State of California that  
4 the real estate market would crash and Ruano and Jordan would lose substantial equity in their  
5 home.

6 Based on these misrepresentations and omissions, the material facts concerning Ruano  
7 and Jordan's loan were concealed from them, and they decided to move forward with their loan.  
8 On June 20, 2003, Ruano and Jordan signed the loan and Deed of Trust, before a notary. Had  
9 they known the truth however, Ruano and Jordan would not have accepted the loan. As a result  
10 of the Defendants' fraudulent acts described throughout this complaint Ruano and Jordan have  
11 lost substantial equity in their home, have damaged or destroyed credit, and at the time Ruano  
12 and Jordan entered into the loan their home was worth substantially more than its current fair  
13 market value. Ruano and Jordan did not discover any of these misrepresentations or omissions  
14 until after a consultation with legal counsel at Brookstone Law, and through a complete and  
15 thorough investigation of the loan documentation, and a discussion of the surrounding facts, the  
16 fraudulent acts of the Defendants, as described throughout this complaint, were brought to light  
17 on or around June 20, 2003.

18 27. Plaintiff Lois Terrell Sullivan ("Sullivan") discussed refinancing an existing  
19 mortgage on her property located at 43728 Santa Rosa Circle, Lancaster, CA 93553 and A.P.N.:  
20 3150-035-056 with a Loan Consultant ("Loan Consultant"), a representative and authorized  
21 agent of Secured Bankers Mortgage Company, a correspondent of GMAC and Defendants herein  
22 (the "Defendants") and authorized by Defendants to lend on its behalf, in or around August  
23 2005. In the course of their discussions ranging from August 2005 until October 2005,  
24 Defendants and Loan Consultant steered her into an Interest-Only ARM in the amount of  
25 \$236,000.00 with an interest rate at 5.875% for a term of 30 years. Little did Sullivan know,  
26 however, payments made during the first two years of her loan were Interest-Only. Sullivan was  
27 also not advised that the interest rate was "fixed" for two years and could adjust every 12  
28 months. The maximum interest rate is 11.875%. Loan Consultant recommended the loan,



**APPENDIX A TO AMENDED COMPLAINT IN SUPPORT OF AMENDED PROOF OF CLAIM**

1 representing that the loan was the best loan for Sullivan. The loan was originated by GMAC, on  
2 the note and deed of trust Secured Bankers Mortgage Company is identified as the lender, and  
3 the loan is currently being serviced by GMAC.

4 Defendants and Loan Consultant represented to Sullivan that her monthly payment would  
5 always be \$1,155.40. Although the amount of Sullivan's initial, disclosed monthly payment was  
6 \$1,155.40, Defendants and Loan Consultant failed to clarify their partially true representations  
7 and advise Sullivan that: (1) her monthly payment would not pay down any of their principal  
8 balance during the Interest-Only period, or (2) her monthly payment would drastically increase at  
9 the end of the Interest-Only period, or (3) the amount of her initial, disclosed monthly payment  
10 would not remain "fixed" for the entire term of his loan.

11 Defendants and Loan Consultant also explicitly represented to Sullivan that she could  
12 afford her loan and further represented that she could shoulder the additional financial burden of  
13 repaying her loan in consideration of her other existing debts; yet failed to disclose that the fully  
14 amortized monthly payment on the loan was \$1,396.03. Given Sullivan's true monthly income of  
15 \$3,600.00, this represents a "front-end" debt-to-income ratio, meaning a debt-to-income ratio,  
16 before any other debts are even considered, of over 39%. Defendants and Loan Consultant  
17 further represented to Sullivan that she could rely on the assessment that she was "qualified" to  
18 mean that she could afford the loan. Because of Sullivan's lack of familiarity with how much  
19 debt a person can and should reasonably take on compared to her monthly income, and because  
20 Sullivan reasonably relied on Defendants' and Loan Consultant's expertise that any payment she  
21 was "qualified" for would take into account what the maximum debt a person such as Sullivan  
22 should be shouldering was, Sullivan reasonably believed Defendants' and Loan Consultant's  
23 representations that she could afford her loan and its payments.

24 Although Defendants and Loan Consultant represented to Sullivan that she was  
25 "qualified" for her loan and could afford her loan and its monthly payments, Defendants and  
26 Loan Consultant misled Sullivan into believing that her monthly payments would always only be  
27 \$1,155.40. Furthermore, at no point did Defendants or Loan Consultant clarify Sullivan's false  
28 belief and advise her that \$1,155.40 would not be her permanent payment under the loan, or that



**APPENDIX A TO AMENDED COMPLAINT IN SUPPORT OF AMENDED PROOF OF CLAIM**

1 every time she made a monthly payment in the amount of \$1,155.40, she was not paying down  
2 any of her principal balance.

3 In addition, Defendants and Loan Consultant represented that appraisals conducted by or  
4 on behalf of Defendants were accurate and made in good faith. On or around September 15,  
5 2005, an appraisal company under the direct control and supervision of Defendants conducted an  
6 appraisal on Sullivan's home, which was fraudulently inflated to an intentionally overstated  
7 value. Defendants and Loan Consultant represented that, per appraisal, Sullivan's home was  
8 worth \$295,000.00 at the time she entered into her loan, and that such a valuation was a true and  
9 correct measure of her home's worth. The current fair market value of Sullivan's home is  
10 approximately \$88,174.00. Sullivan alleges that the appraisal was artificially inflated, and that  
11 she has suffered damages in the amount of \$206,826.00 (\$295,000.00-\$88,174.00) due to a  
12 substantial loss of equity in her home as a result of Defendants' fraudulent inflation and other  
13 acts described herein.

14 Defendants and Loan Consultant also represented to Sullivan that she would be able to  
15 refinance her loan at a later time. Sullivan relied on this assurance in deciding to enter into the  
16 mortgage contract. However, Sullivan has not been able to refinance her loan. Defendants and  
17 Loan Consultant also represented that it would modify Sullivan's loan, and Sullivan relied on  
18 this representation in deciding to enter into the loan. However, Sullivan was unable to modify  
19 her loan. Defendants have rejected Sullivan's loan modification more than four times; Sullivan  
20 as a result had to pay \$8,000.00 in late fees. Currently Sullivan is doing everything she can to  
21 avoid the foreclosure on her home.

22 Furthermore, Defendants and Loan Consultant represented that: (1) Defendants were  
23 reputable and complied with industry standard underwriting guidelines and were engaged in  
24 lending of the highest caliber; (2) property appraisals done by Defendants were accurate and  
25 made in good faith; (3) Sullivan could afford the loan; (4) she was "qualified" for her loan; (5)  
26 "qualified" meant that she could afford her loan; (6) Defendants would modify her loan in the  
27 future; and (7) she would be able to refinance her loan in the future.

28 Moreover, Defendants and Loan Consultant withheld or incompletely, inaccurately or



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1 otherwise improperly disclosed to Sullivan that: (1) Defendants and Loan Consultant knew that  
2 she could not and would not be able to afford her loan and that there was a very high probability  
3 that she would default and/or be foreclosed upon; (2) Defendants had an incentive to sell her  
4 loan, and did sell her loan at fraudulently inflated prices; (3) Defendants' and Loan Consultant's  
5 "qualification" process was for Defendants' own protection and not hers; (4) that Defendants'  
6 and Loan Consultant's representations that she was "qualified" to pay her loan was not intended  
7 to communicate that she could actually "afford" the loan which she was being given; (5)  
8 Defendants had abandoned its conventional lending business, prudent lending standards, and  
9 industry standard underwriting guidelines; (6) Defendants influenced the appraiser to over-value  
10 Sullivan's home to require her to borrow more money with the knowledge that the true value of  
11 Sullivan's home was insufficient to justify the amount of Sullivan's loan; or (7) Defendants  
12 knew that due to its scheme of fraudulently manipulating and inflating property values  
13 throughout the State of California that the real estate market would crash and Sullivan would  
14 lose substantial equity in her home.

15 Based on these misrepresentations and omissions, the material facts concerning  
16 Sullivan's loan were concealed from her, and she decided to move forward with her loan. On  
17 October 10, 2005, Sullivan signed the loan and Deed of Trust, before a notary. Had she known  
18 the truth however, Sullivan would not have accepted the loan. As a result of Defendants'  
19 fraudulent acts described throughout this complaint Sullivan has lost substantial equity in her  
20 home, has damaged or destroyed credit, and at the time Sullivan entered into the loan her home  
21 was worth \$295,000.00, now her home is worth approximately \$88,174.00. Sullivan did not  
22 discover any of these misrepresentations or omissions until after a consultation with legal  
23 counsel at Brookstone Law, and through a complete and thorough investigation of the loan  
24 documentation, and a discussion of the surrounding facts, the fraudulent acts of the Defendants,  
25 as described throughout this complaint, were brought to light on or around March 22, 2012. .  
26 (True and correct copy of the aforementioned documents are attached hereto as *Exhibit 18*).

27 28. Plaintiff Gloria Portillo's ("Portillo") individualized allegations have been  
28 intentionally omitted. Portillo is negotiating dismissal of all claims.



**APPENDIX A TO AMENDED COMPLAINT IN SUPPORT OF AMENDED PROOF OF CLAIM**

1           29. Plaintiff Florastene Holden ("Holden") discussed refinancing an existing  
2 mortgage on her property located at 2114 Oak Crest Drive, Riverside, CA 92506 and  
3 A.P.N.:560-23-9425 with a Loan Consultant ("Loan Consultant"), a representative and  
4 authorized agent of Wholesale Cap Corporation, a correspondent of GMAC and Defendants  
5 herein (the "Defendants") and authorized by Defendants to lend on its behalf, in or around  
6 August 2004. In the course of their discussions ranging from August 2004 until October 2004,  
7 Defendants and Loan Consultant steered her into an Interest-Only ARM in the amount of  
8 \$338,000.00 with an interest rate at 4.500% for a term of 30 years. Little did Holden know,  
9 however, payments made during the first five years of the loan were Interest-Only. Holden also  
10 was not advised that the interest rate was "fixed" for five years and could adjust every six  
11 months. The maximum interest rate is 10.500%. This loan was originated by GMAC, on the  
12 note and deed of trust Wholesale Cap Corporation is identified as the lender, and the loan is  
13 currently being serviced by GMAC.

14           Defendants and Loan Consultant represented to Holden that her monthly payment would  
15 always be \$1,267.50. Although the amount of Holden's initial monthly payment was \$1,267.50,  
16 Defendants and Loan Consultant failed to clarify their partially true representations and advise  
17 Holden that: (1) her monthly payment would not pay down any of their principal balance during  
18 the Interest-Only period, or (2) her monthly payment would drastically increase at the end of the  
19 Interest-Only period, or (3) the amount of her initial monthly payment would not remain "fixed"  
20 for the entire term of his loan.

21           Further, Defendants and Loan Consultant advised her that she was eligible for a Low Doc  
22 Loan. Unbeknownst to her at the time, Defendants and Loan Consultant used this low  
23 documentation requirement to fraudulently inflate her income; and in doing so, Defendants and  
24 Loan Consultant caused her to be placed into a loan whose payments she could not afford given  
25 her true, *un-inflated* monthly income. Defendants and Loan Consultant altered Holden's loan  
26 application without her knowing consent or authorization as Loan Consultant completed  
27 Holden's application without giving Holden an opportunity to review the loan application.

28           Defendants and Loan Consultant also explicitly represented to Holden that she could



**APPENDIX A TO AMENDED COMPLAINT IN SUPPORT OF AMENDED PROOF OF CLAIM**

1 afford her loan and further represented that she could shoulder the additional financial burden of  
2 repaying her loan in consideration of her other existing debts; yet failed to disclose that the fully  
3 amortized monthly payment on the loan was \$1,712.60. Defendants and Loan Consultant further  
4 represented to Holden that she could rely on the assessment that she was “qualified” to mean that  
5 she could afford the loan. Because of Holden’s lack of familiarity with how much debt a person  
6 can and should reasonably take on compared to her monthly income, and because Holden  
7 reasonably relied on Defendants’ and Loan Consultant’s expertise that any payment she was  
8 “qualified” for would take into account what the maximum debt a person such as Holden should  
9 be shouldering was, Holden reasonably believed Defendants’ and Loan Consultant’s  
10 representations that she could afford her loan and its payments.

11 Although Defendants and Loan Consultant represented to Holden that she was  
12 “qualified” for her loan and could afford her loan and its monthly payments, Defendants and  
13 Loan Consultant misled Holden into believing that her monthly payments would always only be  
14 \$1,712.60. Furthermore, at no point did Defendants or Loan Consultant clarify Holden’s false  
15 belief and advise her that \$1,712.60 would not be her permanent payment under the loan, or that  
16 every time she made a monthly payment in the amount of \$1,712.60, she was not paying down  
17 any of her principal balance.

18 In addition, Defendants and Loan Consultant represented that appraisals conducted by or  
19 on behalf of Defendants were accurate and made in good faith. On or around September 25,  
20 2004, an appraisal company under the direct control and supervision of Defendants conducted an  
21 appraisal on Holden’s home, which was fraudulently inflated to an intentionally overstated value.  
22 The current fair market value of Holden’s home is approximately \$123,876.00. Holden alleges  
23 that the appraisal was artificially inflated, and that she has suffered damages due to a substantial  
24 loss of equity in her home as a result of Defendants’ fraudulent inflation and other acts described  
25 herein.

26 Defendants and Loan Consultant also represented to Holden that she would be able to  
27 refinance her loan at a later time. Holden relied on this assurance in deciding to enter into the  
28 mortgage contract. However, Holden has not been able to refinance her loan. Defendants and



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1 Loan Consultant also represented that it would modify Holden's loan, and Holden relied on this  
2 representation in deciding to enter into the loan. In addition, However, Holden was unable to  
3 modify her loan. When Holden experienced financial difficulty, she contacted Defendants for  
4 help in making mortgage payments. Defendants' representative promised that Defendants would  
5 modify her loan in condition that she paid \$6,000.00. Although Holden followed the  
6 representative's advice and made a payment of \$6,000.00 per Defendants' requests, Defendants  
7 rejected Holden's modification.

8 The foreclosure initiated against Holden was wrongful. At the time the NOD was  
9 recorded (on July 20, 2012), the foreclosing trustee (Executive Trustee Services) did not have yet  
10 the legal authority to conduct a trustee's sale because it was not yet substituted as trustee of the  
11 Deed of Trust. Under California law, a trustee's sale conducted by an unauthorized trustee is  
12 void as a matter law. Accordingly, any subsequent foreclosure sale based on that NOD is also  
13 void ab initio.

14 Furthermore, Defendants and Loan Consultant represented that: (1) Defendants were  
15 reputable and complied with industry standard underwriting guidelines and were engaged in  
16 lending of the highest caliber; (2) property appraisals done by Defendants were accurate and  
17 made in good faith; (3) Holden could afford the loan; (4) she was "qualified" for her loan; (5)  
18 "qualified" meant that she could afford her loan; (6) Defendants would modify her loan in the  
19 future; and (7) she would be able to refinance her loan in the future.

20 Moreover, Defendants and Loan Consultant withheld or incompletely, inaccurately or  
21 otherwise improperly disclosed to Holden that: (1) Defendants and Loan Consultant knew that  
22 she could not and would not be able to afford her loan and that there was a very high probability  
23 that she would default and/or be foreclosed upon; (2) Defendants had an incentive to sell her  
24 loan, and did sell her loan at fraudulently inflated prices; (3) Defendants' and Loan Consultant's  
25 "qualification" process was for Defendants' own protection and not hers; (4) that Defendants'  
26 and Loan Consultant's representations that she was "qualified" to pay her loan was not intended  
27 to communicate that she could actually "afford" the loan which she was being given; (5)  
28 Defendants had abandoned its conventional lending business, prudent lending standards, and



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1 industry standard underwriting guidelines; (6) Defendants influenced the appraiser to over-value  
2 Holden's home to require her to borrow more money with the knowledge that the true value of  
3 Holden's home was insufficient to justify the amount of Holden's loan; or (7) Defendants knew  
4 that due to its scheme of fraudulently manipulating and inflating property values throughout the  
5 State of California that the real estate market would crash and Holden would lose substantial  
6 equity in her home.

7 Based on these misrepresentations and omissions, the material facts concerning Holden's  
8 loan were concealed from her, and she decided to move forward with her loan. On October 9,  
9 2004, Holden signed the loan and Deed of Trust, before a notary. Had she known the truth  
10 however, Holden would not have accepted the loan. As a result of Defendants' fraudulent acts  
11 described throughout this complaint Holden has lost substantial equity in her home, has damaged  
12 or destroyed credit, and at the time Holden entered into the loan her home was worth  
13 substantially higher than the current market value then, now her home is worth approximately  
14 \$123,876.00. Holden did not discover any of these misrepresentations or omissions until after a  
15 consultation with legal counsel at Brookstone Law, and through a complete and thorough  
16 investigation of the loan documentation, and a discussion of the surrounding facts, the fraudulent  
17 acts of the Defendants, as described throughout this complaint, were brought to light on or  
18 around March 30, 2012. (True and correct copy of the aforementioned documents are attached  
19 hereto as *Exhibit 19*).

20 30. Plaintiff Marco and Manuela Badilla ("Mr. and Mrs. Badilla") discussed  
21 refinancing an existing mortgage on their property located at Address 14355 Stuard Drive,  
22 Moreno Valley, CA 92553 and APN 484-153-014 with a Loan Consultant ("Loan Consultant"),  
23 a representative and authorized agent of GMAC and Defendants herein (the "Defendant"), in or  
24 around March 2006. In the course of their discussions ranging from March 2006 until May 2006,  
25 Defendants and Loan Consultant steered them into an Interest-Only ARM in the amount of  
26 \$274,000.00 with an interest rate at 6.375% for a term of 30 years. Little did Mr. and Mrs.  
27 Badilla know, however, payments made during the first five years were Interest-Only. Mr. and  
28 Mrs. Badilla also were not advised that the interest rate was "fixed" for five years and could



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1 adjust every 12 months. The maximum interest rate is 11.375%. This loan was originated by  
2 GMAC, on the note and deed of trust GMAC is identified as the lender, and the loan is currently  
3 being serviced by GMAC.

4 Defendants and Loan Consultant represented to Mr. and Mrs. Badilla that their monthly  
5 payment would always be \$1,455.63. Although the amount of Mr. and Mrs. Badilla's initial,  
6 disclosed monthly payment was \$1,455.63, Defendants and Loan Consultant failed to clarify  
7 their partially true representations and advise Mr. and Mrs. Badilla that: (1) their monthly  
8 payment would not pay down any of their principal balance during the Interest-Only period, or  
9 (2) their monthly payment would drastically increase at the end of the Interest-Only period, or  
10 (3) the amount of their initial, disclosed monthly payment would not remain "fixed" for the  
11 entire term of his loan.

12 Further, Defendants and Loan Consultant advised them that they were eligible for a Low  
13 Doc Loan. Unbeknownst to them at the time, Defendants and Loan Consultant used this low  
14 documentation requirement to fraudulently inflate their income; and in doing so, Defendants and  
15 Loan Consultant caused them to be placed into a loan whose payments they could not afford  
16 given their true, *un-inflated* monthly income. Defendants and Loan Consultant altered Mr. and  
17 Mrs. Badilla's loan application without their knowing consent or authorization as Loan  
18 Consultant completed Mr. and Mrs. Badilla's application without giving Mr. and Mrs. Badilla an  
19 opportunity to review the loan application.

20 Defendants and Loan Consultant also explicitly represented to Mr. and Mrs. Badilla that  
21 they could afford their loan and further represented that they could shoulder the additional  
22 financial burden of repaying their loan in consideration of their other existing debts; yet failed to  
23 disclose that the fully amortized monthly payment on the loan was \$1,709.40. Given Mr. and  
24 Mrs. Badilla's true monthly income of \$4,000.00, this represents a "front-end" debt-to-income  
25 ratio, meaning a debt-to-income ratio, before any other debts are even considered, of over 43%.  
26 Defendants and Loan Consultant further represented to Mr. and Mrs. Badilla that they could rely  
27 on the assessment that they were "qualified" to mean that they could afford the loan. Because of  
28 Mr. and Mrs. Badilla's lack of familiarity with how much debt a person can and should



**APPENDIX A TO AMENDED COMPLAINT IN SUPPORT OF AMENDED PROOF OF CLAIM**

1 reasonably take on compared to their monthly income, and because Mr. and Mrs. Badilla  
2 reasonably relied on Defendants' and Loan Consultant's expertise that any payment they were  
3 "qualified" for would take into account what the maximum debt a person such as Mr. and Mrs.  
4 Badilla should be shouldering was, Mr. and Mrs. Badilla reasonably believed Defendants' and  
5 Loan Consultant's representations that they could afford their loan and its payments.

6 Although Defendants and Loan Consultant represented to Mr. and Mrs. Badilla that they  
7 were "qualified" for their loan and could afford their loan and its monthly payments, Defendants  
8 and Loan Consultant misled Mr. and Mrs. Badilla into believing that their monthly payments  
9 would always only be \$1,455.63. Furthermore, at no point did Defendants or Loan Consultant  
10 clarify Mr. and Mrs. Badilla's false belief and advise them that \$1,455.63 would not be their  
11 permanent payment under the loan, or that every time they made a monthly payment in the  
12 amount of \$1,455.63, they were not paying down any of their principal balance.

13 In addition, Defendants and Loan Consultant represented that appraisals conducted by or  
14 on behalf of Defendants were accurate and made in good faith. On May 25, 2006, an appraisal  
15 company under the direct control and supervision of Defendants conducted an appraisal on Mr.  
16 and Mrs. Badilla's home to \$425,000.00 - an intentionally overstated value. The current fair  
17 market value of Mr. and Mrs. Badilla's home is approximately \$111,939.00. Mr. and Mrs.  
18 Badilla allege that the appraisal was artificially inflated, and that they have suffered damages in  
19 the amount of \$313,061.00 (\$425,000.00-\$111,939.00) due to a substantial loss of equity in their  
20 home as a result of Defendants' fraudulent inflation and other acts described herein.

21 Defendants and Loan Consultant also represented to Mr. and Mrs. Badilla that they  
22 would be able to refinance their loan at a later time. Mr. and Mrs. Badilla relied on this assurance  
23 in deciding to enter into the mortgage contract. However, Mr. and Mrs. Badilla have not been  
24 able to refinance their loan. Defendants and Loan Consultant also represented that it would  
25 modify Mr. and Mrs. Badilla's loan, and Mr. and Mrs. Badilla relied on this representation in  
26 deciding to enter into the loan. When Mr. and Mrs. Badilla experienced financial difficulty, they  
27 sought Defendants' assistance in repaying their loan in May 2009. Mr. and Mrs. Badilla were  
28 advised by a representative of Defendants, to stop making payments in order to be eligible for a



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1 modification. However, Mr. and Mrs. Badilla were unable to modify their loan.

2 Furthermore, Defendants and Loan Consultant represented that: (1) Defendants were  
3 reputable and complied with industry standard underwriting guidelines and were engaged in  
4 lending of the highest caliber; (2) property appraisals done by Defendants were accurate and  
5 made in good faith; (3) Mr. and Mrs. Badilla could afford the loan; (4) they were “qualified” for  
6 their loan; (5) “qualified” meant that they could afford their loan; (6) Defendants would modify  
7 their loan in the future; and (7) they would be able to refinance their loan in the future.

8 Moreover, Defendants and Loan Consultant withheld or incompletely, inaccurately or  
9 otherwise improperly disclosed to Mr. and Mrs. Badilla that: (1) Defendants and Loan  
10 Consultant knew that they could not and would not be able to afford their loan and that there  
11 was a very high probability that they would default and/or be foreclosed upon; (2) Defendants  
12 had an incentive to sell their loan, and did sell their loan at fraudulently inflated prices; (3)  
13 Defendants’ and Loan Consultant’s “qualification” process was for Defendants’ own protection  
14 and not theirs; (4) that Defendants’ and Loan Consultant’s representations that they were  
15 “qualified” to pay their loan was not intended to communicate that they could actually “afford”  
16 the loan which they were being given; (5) Defendants had abandoned its conventional lending  
17 business, prudent lending standards, and industry standard underwriting guidelines; (6)  
18 Defendants influenced the appraiser to over-value Mr. and Mrs. Badilla’s home to require them  
19 to borrow more money with the knowledge that the true value of Mr. and Mrs. Badilla’s home  
20 was insufficient to justify the amount of Mr. and Mrs. Badilla’s loan; or (7) Defendants knew  
21 that due to its scheme of fraudulently manipulating and inflating property values throughout the  
22 State of California that the real estate market would crash and Mr. and Mrs. Badilla would lose  
23 substantial equity in their home.

24 Based on these misrepresentations and omissions, the material facts concerning Mr. and  
25 Mrs. Badilla’s loan were concealed from them, and they decided to move forward with their  
26 loan. On May 25, 2006, Mr. and Mrs. Badilla signed the loan and Deed of Trust, before a notary.  
27 Had they known the truth however, Mr. and Mrs. Badilla would not have accepted the loan. As a  
28 result of Defendants’ fraudulent acts described throughout this complaint Mr. and Mrs. Badilla



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1 have lost substantial equity in their home, have damaged or destroyed credit, and at the time Mr.  
2 and Mrs. Badilla entered into the loan their home was worth \$425,000.00, now their home is  
3 worth approximately \$11,939.00. Mr. and Mrs. Badilla did not discover any of these  
4 misrepresentations or omissions until after a consultation with legal counsel at Brookstone Law,  
5 and through a complete and thorough investigation of the loan documentation, and a discussion  
6 of the surrounding facts, the fraudulent acts of the Defendants, as described throughout this  
7 complaint, were brought to light on or around April 12, 2012. (True and correct copy of the  
8 aforementioned documents are attached hereto as *Exhibit 20*).

9 31. Plaintiffs Ignacio Rodriguez and Rosa Rodriguez (Mr. and Mrs. Rodriguez)  
10 discussed refinancing an existing mortgage on their property located at 2714 Norton Avenue,  
11 Lynwood, CA 90262 and A.P.N.: 6170-011-004 with a Loan Consultant ("Loan Consultant"), a  
12 representative and authorized agent of Greenpoint Mortgage Funding, Inc., a correspondent of  
13 GMAC and Defendants herein (the "Defendants") and authorized by Defendants to lend on its  
14 behalf, in or around November 2006. In the course of their discussions ranging from November  
15 2006 until January 2006, Defendants and Loan Consultant steered them into a negatively  
16 amortized PayOption ARM in the amount of \$312,000.00 with an interest rate at 2.75% for a  
17 term of 30 years. Little did Mr. and Mrs. Rodriguez know, however, the interest rate was never  
18 "fixed" but applied to only their first monthly payment and could adjust every month thereafter.  
19 The maximum interest rate is 12.000%. The amount of Mr. and Mrs. Rodriguez's minimum  
20 monthly payment was "fixed" for five months and could adjust every 12 months thereafter.  
21 When the amount of the minimum monthly payment is insufficient to cover the amount of  
22 interest due, then the amount of that deficiency is added onto the unpaid principal balance of  
23 their loan. The recast point of this loan is 110% of the original loan amount. Defendants and  
24 Loan Consultant recommended the loan, representing that Defendants were honest and reputable  
25 in their lending practice. In addition, the loan consultant also represented that the loan was the  
26 best loan for Mr. and Mrs. Rodriguez, and the fixed rate loan Mr. and Mrs. Rodriguez wanted to  
27 get was no longer available in the real estate market. In addition to the PayOption ARM loan,  
28 Defendants and Loan Consultant also steered Mr. and Mrs. Rodriguez into a HELOC in the



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1 amount of \$39,000.00. These loans were originated by GMAC, on the note and deed of trust  
2 Greenpoint Mortgage Funding, Inc. is identified as the lender, and the loan is currently being  
3 serviced by GMAC.

4 Defendants and Loan Consultant represented to Mr. and Mrs. Rodriguez that their  
5 monthly payment would always be \$1,273.72. Although the amount of Mr. and Mrs. Rodriguez's  
6 initial, disclosed minimum monthly payment was \$1,273.72, Defendants and Loan Consultant  
7 failed to clarify their partially true representations and advise Mr. and Mrs. Rodriguez: (1) how  
8 the interest rate on their loan was calculated; (2) that the initial, disclosed minimum monthly  
9 payment of \$1,273.72 would not always be available; (3) that the initial, disclosed minimum  
10 monthly payment would not be the permanent payment under the loan despite Defendants' and  
11 Loan Consultant's affirmative representations to the contrary; (4) that by paying the initial,  
12 disclosed minimum monthly payment they would be definitively deferring interest on their loan,  
13 increasing the principal balance of their loan every time they made the minimum monthly  
14 payment; (5) that by paying the minimum monthly payment the principal balance of their loan  
15 was certain to increase; or (6) their loan would be recast within a few years and they would be  
16 forced to pay considerably higher payments.

17 The disclosures in Mr. and Mrs. Rodriguez's loan documents discussing negative  
18 amortization only frame negative amortization as a mere **possibility** rather than a **certainty** when  
19 making the minimum payment. However, the reality was that by making the minimum payment,  
20 negative amortization was a *certainty*. Indeed, the payment schedule set forth in the Truth in  
21 Lending Disclosure Statement ("TILDS"), which set forth what appeared to be the *required*  
22 payment schedule, fails to disclose that making payments pursuant to the TILDS payment  
23 schedule *will* result in negative amortization. Mr. and Mrs. Rodriguez were not provided, before  
24 entering into the loans, with any other payment schedule or with any informed option to make  
25 payments different than those listed in the TILDS payment schedule. Had Defendants disclosed  
26 that by making the payment pursuant to the TILDS Mr. and Mrs. Rodriguez would be deferring  
27 interest, or had Defendants disclosed the payment amounts sufficient to avoid negative  
28 amortization from occurring, Mr. and Mrs. Rodriguez would not have entered into the loan.



1 **Defendants intentionally omitted a clear disclosure of the nature of Mr. and Mrs.**  
2 **Rodriguez's loan because giving a clear explanation of how the loan worked would have**  
3 **punctured the illusion of a low-payment, low interest rate loan.**

4 Defendants and Loan Consultant altered Mr. and Mrs. Rodriguez's loan application  
5 without their knowing consent or authorization as Loan Consultant completed Mr. and Mrs.  
6 Rodriguez's application without giving Mr. and Mrs. Rodriguez an opportunity to review the  
7 loan application. Unbeknownst to them at the time, Defendants and Loan Consultant used this  
8 low documentation requirement to fraudulently inflate their income; and in doing so, Defendants  
9 and Loan Consultant caused them to be placed into a loan whose payments they could not afford  
10 given their true, *un-inflated* monthly income.

11 Defendants and Loan Consultant also explicitly represented to Mr. and Mrs. Rodriguez  
12 that they could afford their loan and further represented that they could shoulder the additional  
13 financial burden of repaying their loan in consideration of their other existing debts; yet failed to  
14 disclose that the fully amortized monthly payment on the loan was \$2,102.00. Mr. and Mrs.  
15 Rodriguez were also obligated to make a \$149.59 monthly payment on HELOC. Given Mr. and  
16 Mrs. Rodriguez's true monthly income of \$5,200.00, this represents a "front-end" debt-to-  
17 income ratio, meaning a debt-to-income ratio, before any other debts are even considered, of  
18 over 43%. Defendants and Loan Consultant further represented to Mr. and Mrs. Rodriguez that  
19 they could rely on the assessment that they were "qualified" to mean that they could afford the  
20 loan. Because of Mr. and Mrs. Rodriguez's lack of familiarity with how much debt a person can  
21 and should reasonably take on compared to their monthly income, and because Mr. and Mrs.  
22 Rodriguez reasonably relied on Defendants' and Loan Consultant's expertise that any payment  
23 they were "qualified" for would take into account what the maximum debt a person such as Mr.  
24 and Mrs. Rodriguez should be shouldering was, Mr. and Mrs. Rodriguez reasonably believed  
25 Defendants' and Loan Consultant's representations that they could afford their loan and its  
26 payments.

27 Although Defendants and the Loan Consultant represented to Mr. and Mrs. Rodriguez  
28 that they were "qualified" for their loan and could afford their loan and its monthly payments,



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1 Defendants and the Loan Consultant misled Mr. and Mrs. Rodriguez into believing that their  
2 monthly payments would always only be \$1, 273.72. Furthermore, at no point did Defendants or  
3 Loan Consultant clarify Mr. and Mrs. Rodriguez's false belief and advise them that \$1,273.72  
4 would not be their permanent payment under the loan, or that every time they made a monthly  
5 payment in the amount of \$1,273.72, which is less than interest only, they would be deferring  
6 interest on their loan, increasing the principal balance of their loan.

7 In addition, Defendants and Loan Consultant represented that appraisals conducted by or  
8 on behalf of Defendants were accurate and made in good faith. On or around January 2, 2006, an  
9 appraisal company under the direct control and supervision of Defendants conducted an appraisal  
10 on Mr. and Mrs. Rodriguez's home, which was fraudulently inflated to an intentionally  
11 overstated value. Defendants and Loan Consultant represented that, per appraisal, Mr. and Mrs.  
12 Rodriguez's home was worth \$312,000.00 at the time they entered into their loan, and that such a  
13 valuation was a true and correct measure of their home's worth. The current fair market value of  
14 Mr. and Mrs. Rodriguez's home is approximately \$150,600.00. Mr. and Mrs. Rodriguez allege  
15 that the appraisal was artificially inflated, and that they have suffered damages in the amount of  
16 \$161,400.00 (\$312,000.00-\$150,600.00) due to a substantial loss of equity in their home as a  
17 result of Defendants' fraudulent inflation and other acts described herein.

18 Defendants and Loan Consultant also represented to Mr. and Mrs. Rodriguez that they  
19 would be able to refinance their loan within three years of the loan, should the mortgage  
20 payments go up. Mr. and Mrs. Rodriguez relied on this assurance in deciding to enter into the  
21 mortgage contract. However, Mr. and Mrs. Rodriguez have not been able to refinance their loan  
22 although they have tried to refinance more than three times. Defendants and Loan Consultant  
23 also represented that it would modify Mr. and Mrs. Rodriguez's loan, and Mr. and Mrs.  
24 Rodriguez relied on this representation in deciding to enter into the loan. However, Mr. and Mrs.  
25 Rodriguez were unable to modify their loan. When Mr. and Mrs. Rodriguez's mortgage  
26 payments substantially increased from the original payment, causing financial difficulty for  
27 them, they contacted Defendants for assistance in repaying their loan. However, Defendants  
28 refused to review their loan modification application because Mr. and Mrs. Rodriguez were not



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1 in default on their loan. Soon after Defendants' denial for the loan modification, Mr. and Mrs.  
2 Rodriguez fell behind on their mortgage and lost their home to the foreclosure in 2010.

3 The foreclosure against Mr. and Mrs. Rodriguez was wrongful for numerous reasons.  
4 First, the NOD (recorded July 19, 2010) noted MERS as the foreclosing beneficiary of the loan  
5 in its individual capacity. However, under California law MERS is only a nominee acting on  
6 behalf of the true beneficiary, and cannot initiate foreclosure in its own name. MERS can only  
7 act when acting in its nominal capacity. Here, MERS initiates the foreclosure sale in its own  
8 name, rendering their NOD ineffective. Accordingly, any subsequent foreclosure sale based on  
9 that NOD would be void as well.

10 Second, the Substitution of Trustee is also ineffective because MERS substitutes ETS as  
11 the foreclosing trustee in its own name. Therefore, ETS was never properly substituted as a  
12 trustee of the loan and it was unauthorized to conduct the trustee's sale. Under California law, a  
13 trustee's sale conducted by an unauthorized trustee was void as a matter of law.

14 Finally, the foreclosure against Mr. and Mrs. Rodriguez was wrongful because the  
15 foreclosing trustee on the Trustee's Deed upon Sale was GMAC, but GMAC was never properly  
16 assigned beneficiary interest in the deed of trust. Therefore, at the time of the foreclosure sale,  
17 GMAC was unauthorized to conduct the trustee's sale, so the foreclosure sale was void as a  
18 matter a law.

19 Furthermore, Defendants and Loan Consultant represented that: (1) Defendants were  
20 reputable and complied with industry standard underwriting guidelines and were engaged in  
21 lending of the highest caliber; (2) property appraisals done by Defendants were accurate and  
22 made in good faith; (3) Mr. and Mrs. Rodriguez could afford the loan ; (4) they were "qualified"  
23 for their loan; (5) "qualified" meant that they could afford their loan; (6) Defendants would  
24 modify their loan in the future; and (7) they would be able to refinance their loan in the future.

25 Moreover, Defendants and Loan Consultant withheld or incompletely, inaccurately or  
26 otherwise improperly disclosed to Mr. and Mrs. Rodriguez that: (1) Defendants and Loan  
27 Consultant knew that they could not and would not be able to afford their loan and that there was  
28 a very high probability that they would default and/or be foreclosed upon; (2) Defendants had an



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1 incentive to sell their loan, and did sell their loan at fraudulently inflated prices; (3) Defendants'  
2 and Loan Consultant's "qualification" process was for Defendants' own protection and not  
3 theirs;(4) that Defendants' and Loan Consultant's representations that they were "qualified" to  
4 pay their loan was not intended to communicate that they could actually "afford" the loan which  
5 they were being given; (5) Defendants had abandoned its conventional lending business, prudent  
6 lending standards, and industry standard underwriting guidelines; (6) Defendants influenced the  
7 appraiser to over-value Mr. and Mrs. Rodriguez's home to require them to borrow more money  
8 with the knowledge that the true value of Mr. and Mrs. Rodriguez's home was insufficient to  
9 justify the amount of Mr. and Mrs. Rodriguez's loan; or (7) Defendants knew that due to its  
10 scheme of fraudulently manipulating and inflating property values throughout the State of  
11 California that the real estate market would crash and Mr. and Mrs. Rodriguez would lose  
12 substantial equity in their home.

13 Based on these misrepresentations and omissions, the material facts concerning Mr. and  
14 Mrs. Rodriguez's loan were concealed from them, and they decided to move forward with their  
15 loan. On January 25, 2006, Mr. and Mrs. Rodriguez signed the loan and Deed of Trust, before a  
16 notary. Had they known the truth however, Mr. and Mrs. Rodriguez would not have accepted the  
17 loan. As a result of Defendants' fraudulent acts described throughout this complaint Mr. and  
18 Mrs. Rodriguez have lost substantial equity in their home, have damaged or destroyed credit, and  
19 at the time Mr. and Mrs. Rodriguez entered into the loan their home was worth \$312,000.00,  
20 now their home is worth approximately \$150,600.00. Mr. and Mrs. Rodriguez did not discover  
21 any of these misrepresentations or omissions until after a consultation with legal counsel at  
22 Brookstone Law, and through a complete and thorough investigation of the loan documentation,  
23 and a discussion of the surrounding facts, the fraudulent acts of the Defendants, as described  
24 throughout this complaint, were brought to light on or around March 9, 2011. (True and correct  
25 copy of the aforementioned documents are attached hereto as *Exhibit 21*).

26 32. Plaintiffs Salvador Barajas and Maria Barajas ("Mr. and Mrs. Barajas") discussed  
27 refinancing an existing mortgage on their property located at 2202 West Avalon Avenue, Santa  
28 Ana, CA 92706 and A.P.N.: 101-581-10 with a Loan Consultant ("Loan Consultant") with



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1 Homecomings Financial Company, LLC, a correspondent of GMAC and Defendants herein  
2 (“Defendants”) and authorized by Defendants to lend on its behalf, in or around December 2006.  
3 In the course of their discussions ranging from December 2006 until February 2006, Defendants  
4 and Loan Consultant steered them into a negatively amortized PayOption ARM in the amount of  
5 \$521,600.00 with an interest rate at 1.510% for a term of 30 years. Little did Mr. and Mrs.  
6 Barajas know, however, the interest rate was never “fixed” but applied to only their first monthly  
7 payment and could adjust every 12 months thereafter. The maximum interest rate is 9.950%. The  
8 amount of Mr. and Mrs. Barajas’s minimum monthly payment was “fixed” for 12 months and  
9 could adjust every 12 months thereafter. When the amount of the minimum monthly payment is  
10 insufficient to cover the amount of interest due, then the amount of that deficiency is added onto  
11 the unpaid principal balance of their loan. The recast point of this loan is 115% of the original  
12 loan amount. The loan was originated by GMAC, on the note and deed of trust Homecomings  
13 Financial Company, LLC was identified as the lender, and the loan is currently being serviced by  
14 GMAC.

15 Defendants and Loan Consultant represented to Mr. and Mrs. Barajas that their monthly  
16 payment would be \$1,800.00 Although the amount of Mr. and Mrs. Barajas’s initial minimum  
17 monthly payment was \$1,800.00, Defendants and Loan Consultant failed to clarify their partially  
18 true representations and advise Mr. and Mrs. Barajas: (1) how the interest rate on their loan was  
19 calculated; (2) that the initial minimum monthly payment of \$1,800.00 would not always be  
20 available; (3) that the initial minimum monthly payment would not be the permanent payment  
21 under the loan despite Defendants’ and Loan Consultant’s affirmative representations to the  
22 contrary; (4) that by paying the initial minimum monthly payment they would be definitively  
23 deferring interest on their loan, increasing the principal balance of their loan every time they  
24 made the minimum monthly payment; (5) that by paying the minimum monthly payment the  
25 principal balance of their loan was certain to increase; or (6) their loan would be recast within a  
26 few years and they would be forced to pay considerably higher payments.

27 The disclosures in Mr. and Mrs. Barajas’ loan documents discussing negative  
28 amortization only frame negative amortization as a mere **possibility** rather than a **certainty** when



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1 making the minimum payment. However, the reality was that by making the minimum payment,  
2 negative amortization was a *certainty*. Indeed, the payment schedule set forth in the Truth in  
3 Lending Disclosure Statement ("TILDS"), which set forth what appeared to be the *required*  
4 payment schedule, fails to disclose that making payments pursuant to the TILDS payment  
5 schedule *will* result in negative amortization. Mr. and Mrs. Barajas were not provided, before  
6 entering into the loans, with any other payment schedule or with any informed option to make  
7 payments different than those listed in the TILDS payment schedule. Had Defendants disclosed  
8 that by making the payment pursuant to the TILDS Mr. and Mrs. Barajas would be deferring  
9 interest, or had Defendants disclosed the payment amounts sufficient to avoid negative  
10 amortization from occurring, Mr. and Mrs. Barajas would not have entered into the loan.

11 **Defendants intentionally omitted a clear disclosure of the nature of Mr. and Mrs. Barajas'**  
12 **loan because giving a clear explanation of how the loan worked would have punctured the**  
13 **illusion of a low-payment, low interest rate loan.**

14 Defendants and Loan Consultant altered Mr. and Mrs. Barajas's loan application without  
15 their knowing consent or authorization as Loan Consultant completed Mr. and Mrs. Barajas'  
16 application without giving Mr. and Mrs. Barajas an opportunity to review the loan application.  
17 Further, Defendants and Loan Consultant advised them that they were eligible for a Low Doc  
18 Loan. Unbeknownst to them at the time, Defendants and Loan Consultant used this low  
19 documentation requirement to fraudulently inflate their income and in doing so, Defendants and  
20 Loan Consultant caused them to be placed into a loan whose payments they could not afford  
21 given their true, *un-inflated* monthly income.

22 Defendants and Loan Consultant also explicitly represented to Mr. and Mrs. Barajas that  
23 they could afford their loan and further represented that they could shoulder the additional  
24 financial burden of repaying their loan in consideration of their other existing debts; yet failed to  
25 disclose that the fully amortized monthly payment on the loan was \$3,825.00. Given Mr. Barajas  
26 and Mrs. Barajas's true monthly income of \$1,800.00, this represents a "front-end" debt-to-  
27 income ratio of 212% - grossly in excess of industry standard underwriting guidelines, and in  
28 excess of Defendants' own underwriting guidelines. Defendants and Loan Consultant further



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1 represented to Mr. and Mrs. Barajas that they could rely on the assessment that they were  
2 “qualified” to mean that they could afford the loan. Because of Mr. and Mrs. Barajas’ lack of  
3 familiarity with how much debt a person can and should reasonably take on compared to their  
4 monthly income, and because Mr. and Mrs. Barajas reasonably relied on Defendants’ and Loan  
5 Consultant’s expertise that any payment they were “qualified” for would take into account what  
6 the maximum debt a person such as Mr. and Mrs. Barajas should be shouldering was, Mr. and  
7 Mrs. Barajas reasonably believed Defendants’ and Loan Consultant’s representations that they  
8 could afford their loan and its payments.

9 Although Defendants and the Loan Consultant represented to Mr. and Mrs. Barajas that  
10 they were “qualified” for their loan and could afford their loan and its monthly payments,  
11 Defendants and the Loan Consultant misled Mr. and Mrs. Barajas into believing that their  
12 monthly payments would always only be \$1,800.00. Furthermore, at no point did Defendants or  
13 Loan Consultant clarify Mr. and Mrs. Barajas’ false belief and advise them that \$1,800.00 would  
14 not be their permanent payment under the loan, or that every time they made a monthly payment  
15 in the amount of \$1,800.00, which is less than interest only, they would be deferring interest on  
16 their loan, increasing the principal balance of their loan.

17 In addition, Defendants and Loan Consultant represented that appraisals conducted by or  
18 on behalf of Defendants were accurate and made in good faith. On or around January 2007, an  
19 appraisal company under the direct control and supervision of Defendants conducted an appraisal  
20 on Mr. and Mrs. Barajas’ home, which was fraudulently inflated to an intentionally overstated  
21 value. Defendants and Loan Consultant represented that, per appraisal, Mr. and Mrs. Barajas’  
22 home was worth \$370,000.00 at the time they entered into their loan, and that such a valuation  
23 was a true and correct measure of their home’s worth. The current fair market value of Mr. and  
24 Mrs. Barajas’ home is approximately \$299,301.00. Mr. and Mrs. Barajas allege that the appraisal  
25 was artificially inflated, and that they have suffered damages in the amount of \$70,699.00  
26 (\$370,000.00-\$299,301.00) due to a substantial loss of equity in their home as a result of  
27 Defendants’ fraudulent inflation and other acts described herein.

28 Defendants and Loan Consultant also represented that it would modify Mr. and Mrs.



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1 Barajas' loan, and Mr. and Mrs. Barajas relied on this representation in deciding to enter into the  
2 loan. In addition, Mr. Barajas and Mrs. Barajas were advised by a representative of Defendants,  
3 to stop making payments in order to be eligible for a modification. Mr. and Mrs. Barajas relied  
4 on Defendants' and Defendants' representative's advice and stopped making their monthly  
5 payments causing them to fall even further behind. However, Mr. and Mrs. Barajas were unable  
6 to modify their loan.

7 Furthermore, Defendants and Loan Consultant represented that: (1) Defendants were  
8 reputable and complied with industry standard underwriting guidelines and were engaged in  
9 lending of the highest caliber; (2) property appraisals done by Defendants were accurate and  
10 made in good faith; (3) Mr. and Mrs. Barajas could afford the loan; (4) they were "qualified" for  
11 their loan; (5) "qualified" meant that they could afford their loan; (6) they would be able to  
12 modify their loan; and (7) they would be able to refinance their loan.

13 Moreover, Defendants and Loan Consultant withheld or incompletely, inaccurately or  
14 otherwise improperly disclosed to Mr. and Mrs. Barajas that: (1) Defendants and Loan  
15 Consultant knew that they could not and would not be able to afford their loan and that there was  
16 a very high probability that they would default and/or be foreclosed upon; (2) Defendants had an  
17 incentive to sell their loan, and did sell their loan at fraudulently inflated prices; (3) Defendants'  
18 and Loan Consultant's "qualification" process was for Defendants' own protection and not  
19 theirs; (4) that Defendants' and Loan Consultant's representations that they were "qualified" to  
20 pay their loan was not intended to communicate that they could actually "afford" the loan which  
21 they were being given; (5) Defendants had abandoned its conventional lending business, prudent  
22 lending standards, and industry standard underwriting guidelines; (6) Defendants influenced the  
23 appraiser to over-value Mr. Barajas and Mrs. Barajas's home to require them to borrow more  
24 money with the knowledge that the true value of Mr. Barajas and Mrs. Barajas's home was  
25 insufficient to justify the amount of Mr. Barajas and Mrs. Barajas's loan; or (7) Defendants knew  
26 that due to its scheme of fraudulently manipulating and inflating property values throughout the  
27 State of California that the real estate market would crash and Mr. Barajas and Mrs. Barajas  
28 would lose substantial equity in their home.



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1 Based on these misrepresentations and omissions, the material facts concerning Mr. and  
2 Mrs. Barajas' loan were concealed from them, and they decided to move forward with their loan.  
3 On February 13, 2007, Mr. and Mrs. Barajas signed the loan and Deed of Trust, before a notary.  
4 Had they known the truth however, Mr. and Mrs. Barajas would not have accepted the loan. As a  
5 result of Defendants' fraudulent acts described throughout this complaint Mr. and Mrs. Barajas  
6 have lost substantial equity in their home, have damaged or destroyed credit, and at the time Mr.  
7 and Mrs. Barajas entered into the loan their home was worth \$370,000.00, now their home is  
8 worth approximately \$299,301.00. Mr. and Mrs. Barajas did not discover any of these  
9 misrepresentations or omissions until after a consultation with legal counsel at Brookstone Law,  
10 and through a complete and thorough investigation of the loan documentation, and a discussion  
11 of the surrounding facts, the fraudulent acts of the Defendants, as described throughout this  
12 complaint, were brought to light on or around July 29, 2011. (True and correct copy of the  
13 aforementioned documents are attached hereto as *Exhibit 22*).

14 33. Plaintiff Brian Foote ("Foote") discussed refinancing an existing mortgage on his  
15 property located at 15872 Coral Street, Palm Springs, CA 92262 and A.P.N.: 522-211-004 with a  
16 Loan Consultant ("Loan Consultant"), a representative and authorized agent of Homecomings  
17 Financial LLC. and Defendants herein (the "Defendants") and authorized by Defendants to lend  
18 on its behalf, in or around August 2006. In the course of their discussions ranging from August  
19 2006 until October 2006, Defendants and Loan Consultant steered him into a negatively  
20 amortized PayOption ARM in the amount of \$312,000.00 with an interest rate at 2.000% for a  
21 term of 40 years. Little did Foote know, however, the interest rate was never "fixed" but applied  
22 to only his first monthly payment and could adjust every month thereafter. The maximum  
23 interest rate is 12.000%. The amount of Foote's minimum monthly payment was "fixed" for 12  
24 months and could adjust every 12 months thereafter. When the amount of the minimum monthly  
25 payment is insufficient to cover the amount of interest due, then the amount of that deficiency is  
26 added onto the unpaid principal balance of his loan. The recast point of this loan is 115% of the  
27 original loan amount. In addition, Defendants and Loan Consultant also steered Foote in a fixed  
28 rate loan in the amount of \$36,500.00 with the interest rate at 9.025% for a term of 25 years. This



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1 loan was originated by GMAC, on the note and deed of trust Homecomings Financial LLC is  
2 identified as the lender, and the loan is currently being serviced by Aurora.

3 Defendants and Loan Consultant represented to Foote that his monthly payment would  
4 always be \$884.25. Although the amount of Foote's initial, disclosed minimum monthly  
5 payment was \$884.25, Defendants and Loan Consultant failed to clarify their partially true  
6 representations and advise Foote: (1) how the interest rate on his loan was calculated; (2) that the  
7 initial, disclosed minimum monthly payment of \$884.25 would not always be available; (3) that  
8 the initial, disclosed minimum monthly payment would not be the permanent payment under the  
9 loan despite Defendants' and Loan Consultant's affirmative representations to the contrary; (4)  
10 that by paying the initial, disclosed minimum monthly payment he would be definitively  
11 deferring interest on his loan, increasing the principal balance of his loan every time he made the  
12 minimum monthly payment; (5) that by paying the minimum monthly payment the principal  
13 balance of his loan was certain to increase; or (6) his loan would be recast within a few years and  
14 he would be forced to pay considerably higher payments.

15 The disclosures in Foote's loan documents discussing negative amortization only frame  
16 negative amortization as a mere **possibility** rather than a **certainty** when making the minimum  
17 payment. However, the reality was that by making the minimum payment, negative amortization  
18 was a *certainty*. Indeed, the payment schedule set forth in the Truth in Lending Disclosure  
19 Statement ("TILDS"), which set forth what appeared to be the *required* payment schedule, fails  
20 to disclose that making payments pursuant to the TILDS payment schedule *will* result in negative  
21 amortization. Foote was not provided, before entering into the loans, with any other payment  
22 schedule or with any informed option to make payments different than those listed in the TILDS  
23 payment schedule. Had Defendants disclosed that by making the payment pursuant to the TILDS  
24 Foote would be deferring interest, or had Defendants disclosed the payment amounts sufficient to  
25 avoid negative amortization from occurring, Foote would not have entered into the loan.  
26 **Defendants intentionally omitted a clear disclosure of the nature of Foote's loan because**  
27 **giving a clear explanation of how the loan worked would have punctured the illusion of a**  
28 **low-payment, low interest rate loan.**



**APPENDIX A TO AMENDED COMPLAINT IN SUPPORT OF AMENDED PROOF OF CLAIM**

1 Further, Defendants and Loan Consultant advised him that he was eligible for a Low Doc  
2 Loan. Unbeknownst to him at the time, Defendants and Loan Consultant used this low  
3 documentation requirement to fraudulently inflate his income by \$2,772.00, a factor of 55%; and  
4 in doing so, Defendants and Loan Consultant caused him to be placed into a loan whose  
5 payments he could not afford given his true, *un-inflated* monthly income. Defendants and Loan  
6 Consultant altered Foote's loan application without his knowing consent or authorization as Loan  
7 Consultant completed Foote's application without giving Foote an opportunity to review the loan  
8 application.

9 Defendants and Loan Consultant also explicitly represented to Foote that he could afford  
10 his loan and further represented that he could shoulder the additional financial burden of  
11 repaying his loan in consideration of his other existing debts; yet failed to disclose that the fully  
12 amortized monthly payment on the loan was \$2,055.33. Foote was also obligated to make a  
13 \$306.93. Given Foote's true monthly income of \$5,028.00, this represents a "front-end" debt-to-  
14 income ratio, meaning a debt-to-income ratio, before any other debts are even considered, of  
15 over 47%. Defendants and Loan Consultant further represented to Foote that he could rely on the  
16 assessment that he was "qualified" to mean that he could afford the loan. Because of Foote's lack  
17 of familiarity with how much debt a person can and should reasonably take on compared to his  
18 monthly income, and because Foote reasonably relied on Defendants' and Loan Consultant's  
19 expertise that any payment he was "qualified" for would take into account what the maximum  
20 debt a person such as Foote should be shouldering was, Foote reasonably believed Defendants'  
21 and Loan Consultant's representations that he could afford his loan and its payments.

22 Although Defendants and the Loan Consultant represented to Foote that he was  
23 "qualified" for his loan and could afford his loan and its monthly payments, Defendants and the  
24 Loan Consultant misled Foote into believing that his monthly payments would always only be  
25 \$884.25. Furthermore, at no point did Defendants or Loan Consultant clarify Foote's false belief  
26 and advise him that \$884.25 would not be his permanent payment under the loan, or that every  
27 time he made a monthly payment in the amount of \$884.25, which is less than interest only, he  
28 would be deferring interest on his loan, increasing the principal balance of his loan.



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1 In addition, Defendants and Loan Consultant represented that appraisals conducted by or  
2 on behalf of Defendants were accurate and made in good faith. On or around October 4, 2006, an  
3 appraisal company under the direct control and supervision of Defendants conducted an appraisal  
4 on Foote's home, which was fraudulently inflated to an intentionally overstated value. Foote's  
5 loan documentation indicates that his home was worth \$350,000.00 at the time he entered into  
6 their loan. The current fair market value of Foote's home is approximately \$80,750.00. Foote  
7 alleges that the appraisal was artificially inflated, and that he has suffered damages in the amount  
8 of \$269,250.00 (\$350,000.00-\$80,750) due to a substantial loss of equity in his home as a result  
9 of Defendants' fraudulent inflation and other acts described herein.

10 Defendants and Loan Consultant also represented to Foote that he would be able to  
11 refinance his loan at a later time. Foote relied on this assurance in deciding to enter into the  
12 mortgage contract. However, Foote has not been able to refinance his loan. Defendants and  
13 Loan Consultant also represented that it would modify Foote's loan, and Foote relied on this  
14 representation in deciding to enter into the loan. However, Foote was unable to modify his loan.

15 Furthermore, Defendants and Loan Consultant represented that: (1) Defendants were  
16 reputable and complied with industry standard underwriting guidelines and were engaged in  
17 lending of the highest caliber; (2) property appraisals done by Defendants were accurate and  
18 made in good faith; (3) Foote could afford the loan; (4) he was "qualified" for his loan; (5)  
19 "qualified" meant that he could afford his loan; (6) Defendants would modify his loan in the  
20 future; and (7) he would be able to refinance his loan in the future.

21 Moreover, Defendants and Loan Consultant withheld or incompletely, inaccurately or  
22 otherwise improperly disclosed to Foote that: (1) Defendants and Loan Consultant knew that he  
23 could not and would not be able to afford his loan and that there was a very high probability that  
24 he would default and/or be foreclosed upon; (2) Defendants had an incentive to sell his loan, and  
25 did sell his loan at fraudulently inflated prices; (3) Defendants' and Loan Consultant's  
26 "qualification" process was for Defendants' own protection and not his; (4) that Defendants' and  
27 Loan Consultant's representations that he was "qualified" to pay his loan was not intended to  
28 communicate that he could actually "afford" the loan which he was being given; (5) Defendants



APPENDIX A TO AMENDED COMPLAINT IN SUPPORT OF AMENDED PROOF OF CLAIM

1 had abandoned its conventional lending business, prudent lending standards, and industry  
2 standard underwriting guidelines; (6) Defendants influenced the appraiser to over-value Foote's  
3 home to require him to borrow more money with the knowledge that the true value of Foote's  
4 home was insufficient to justify the amount of Foote's loan; or (7) Defendants knew that due to  
5 its scheme of fraudulently manipulating and inflating property values throughout the State of  
6 California that the real estate market would crash and Foote would lose substantial equity in his  
7 home.

8 Based on these misrepresentations and omissions, the material facts concerning Foote's  
9 loan were concealed from him, and he decided to move forward with his loan. On October 25,  
10 2006, Foote signed the loan and Deed of Trust, before a notary. Had he known the truth  
11 however, Foote would not have accepted the loan. As a result of Defendants' fraudulent acts  
12 described throughout this complaint Foote has lost substantial equity in his home, has damaged  
13 or destroyed credit, and at the time Foote entered into the loan his home was worth \$350,000.00,  
14 now his home is worth approximately \$80,750.00. Foote did not discover any of these  
15 misrepresentations or omissions until after a consultation with legal counsel at Brookstone Law,  
16 and through a complete and thorough investigation of the loan documentation, and a discussion  
17 of the surrounding facts, the fraudulent acts of the Defendants, as described throughout this  
18 complaint, were brought to light on or around October 14, 2011. (True and correct copy of the  
19 aforementioned documents are attached hereto as *Exhibit 23*).

20 34. Plaintiffs Olan Ross and Evelyn Ross ("Mr. and Mrs. Ross") discussed  
21 refinancing an existing mortgage on their property located at 19901 Archwood Street, Winnetka,  
22 CA 91306 and A.P.N.: 2134-011-017 with a Loan Consultant ("Loan Consultant"), a  
23 representative and authorized agent of National City Mortgage, a correspondent of GMAC and  
24 Defendants herein (the "Defendants") and authorized by Defendants to lend on its behalf, in or  
25 around November 2006. In the course of their discussions ranging from November 2006 until  
26 January 2007, Defendants and Loan Consultant steered them into a fixed rate Interest-Only in the  
27 amount of \$408,000.00 with an interest rate at 6.875% for a term of 30 years. Little did Mr. and  
28 Mrs. Ross know, however, payments made during the first five years of their loan were Interest-



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1 Only. This loan was originated by GMAC, on the note and deed of trust National City Mortgage  
2 is identified as the lender, and the loan is currently being serviced by PNC Mortgage.

3 Defendants and Loan Consultant represented to Mr. and Mrs. Ross that their monthly  
4 payment would always be \$2,337.50. Although the amount of Mr. and Mrs. Ross' initial monthly  
5 payment was \$5,500.00, Defendants and Loan Consultant failed to clarify their partially true  
6 representations and advise Mr. and Mrs. Ross that: (1) their monthly payment would not pay  
7 down any of their principal balance during the Interest-Only period, or (2) their monthly  
8 payment would drastically increase at the end of the Interest-Only period, or (3) the amount of  
9 their initial monthly payment would not remain "fixed" for the entire term of his loan.

10 Defendants and Loan Consultant also explicitly represented to Mr. and Mrs. Ross that  
11 they could afford their loan and further represented that they could shoulder the additional  
12 financial burden of repaying their loan in consideration of their other existing debts; yet failed to  
13 disclose that the fully amortized monthly payment on the loan was \$2,680.27. Given Mr. and  
14 Mrs. Ross's true monthly income of \$5,500.00, this represents a "front-end" debt-to-income  
15 ratio, meaning a debt-to-income ratio, before any other debts are even considered, of over 49%-  
16 in excess of industry standard underwriting guidelines, and in excess of Defendants' own  
17 underwriting guidelines. Defendants and Loan Consultant further represented to Mr. and Mrs.  
18 Ross that they could rely on the assessment that they were "qualified" to mean that they could  
19 afford the loan. Because of Mr. and Mrs. Ross' lack of familiarity with how much debt a person  
20 can and should reasonably take on compared to their monthly income, and because Mr. and Mrs.  
21 Ross reasonably relied on Defendants' and Loan Consultant's expertise that any payment they  
22 were "qualified" for would take into account what the maximum debt a person such as Mr. and  
23 Mrs. Ross should be shouldering was, Mr. and Mrs. Ross reasonably believed Defendants' and  
24 Loan Consultant's representations that they could afford their loan and its payments.

25 Although Defendants and Loan Consultant represented to Mr. and Mrs. Ross that they  
26 were "qualified" for their loan and could afford their loan and its monthly payments, Defendants  
27 and Loan Consultant misled Mr. and Mrs. Ross into believing that their monthly payments would  
28 always only be \$2,337.00. Furthermore, at no point did Defendants or Loan Consultant clarify



**APPENDIX A TO AMENDED COMPLAINT IN SUPPORT OF AMENDED PROOF OF CLAIM**

1 Mr. and Mrs. Ross' false belief and advise them that \$2,337.00 would not be their permanent  
2 payment under the loan, or that every time they made a monthly payment in the amount of  
3 \$2,337.00, they were not paying down any of their principal balance.

4 In addition, Defendants and Loan Consultant represented that appraisals conducted by or  
5 on behalf of Defendants were accurate and made in good faith. On or around December 15,  
6 2006, an appraisal company under the direct control and supervision of Defendants conducted an  
7 appraisal on Mr. and Mrs. Ross's home, which was fraudulently inflated an intentionally  
8 overstated value. Defendants and Loan Consultant represented that, per appraisal, Mr. and Mrs.  
9 Ross' home was worth \$500,000.00 at the time they entered into their loan, and that such a  
10 valuation was a true and correct measure of their home's worth. The current fair market value of  
11 Mr. and Mrs. Ross' home is approximately \$190,000.00. Mr. and Mrs. Ross allege that the  
12 appraisal was artificially inflated, and that they have suffered damages in the amount of  
13 \$310,000.00 (\$500,000.00-\$190,000.00 due to a substantial loss of equity in their home as a  
14 result of Defendants' fraudulent inflation and other acts described herein.

15 Defendants and Loan Consultant also represented to Mr. and Mrs. Ross that they would  
16 be able to refinance their loan at a later time. Mr. and Mrs. Ross relied on this assurance in  
17 deciding to enter into the mortgage contract. However, Mr. and Mrs. Ross have not been able to  
18 refinance their loan. Defendants and Loan Consultant also represented that it would modify Mr.  
19 and Mrs. Ross' loan, and Mr. and Mrs. Ross relied on this representation in deciding to enter into  
20 the loan. However, Mr. and Mrs. Ross were unable to modify their loan.

21 Furthermore, Defendants and Loan Consultant represented that: (1) Defendants were  
22 reputable and complied with industry standard underwriting guidelines and were engaged in  
23 lending of the highest caliber; (2) property appraisals done by Defendants were accurate and  
24 made in good faith; (3) Mr. and Mrs. Ross could afford the loan; (4) they were "qualified" for  
25 their loan; (5) "qualified" meant that they could afford their loan; (6) Defendants would modify  
26 their loan in the future; and (7) they would be able to refinance their loan in the future.

27 Moreover, Defendants and Loan Consultant withheld or incompletely, inaccurately or  
28 otherwise improperly disclosed to Mr. and Mrs. Ross that: (1) Defendants and Loan Consultant



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1 knew that they could not and would not be able to afford their loan and that there was a very high  
2 probability that they would default and/or be foreclosed upon; (2) Defendants had an incentive to  
3 sell their loan, and did sell their loan at fraudulently inflated prices; (3) Defendants' and Loan  
4 Consultant's "qualification" process was for Defendants' own protection and not theirs; (4) that  
5 Defendants' and Loan Consultant's representations that they were "qualified" to pay their loan  
6 was not intended to communicate that they could actually "afford" the loan which they were  
7 being given; (5) Defendants had abandoned its conventional lending business, prudent lending  
8 standards, and industry standard underwriting guidelines; (6) Defendants influenced the  
9 appraiser to over-value Mr. and Mrs. Ross' home to require them to borrow more money with  
10 the knowledge that the true value of Mr. and Mrs. Ross' home was insufficient to justify the  
11 amount of Mr. and Mrs. Ross' loan; or (7) Defendants knew that due to its scheme of  
12 fraudulently manipulating and inflating property values throughout the State of California that  
13 the real estate market would crash and Mr. and Mrs. Ross would lose substantial equity in their  
14 home.

15 Based on these misrepresentations and omissions, the material facts concerning Mr. and  
16 Mrs. Ross' loan were concealed from them, and they decided to move forward with their loan.  
17 On January 5, 2007, Mr. and Mrs. Ross signed the loan and Deed of Trust, before a notary. Had  
18 they known the truth however, Mr. and Mrs. Ross would not have accepted the loan. As a result  
19 of Defendants' fraudulent acts described throughout this complaint Mr. and Mrs. Ross have lost  
20 substantial equity in their home, have damaged or destroyed credit, and at the time Mr. and Mrs.  
21 Ross entered into the loan their home was worth \$500,000.00, now their home is worth  
22 approximately \$190,000.00. Mr. and Mrs. Ross did not discover any of these misrepresentations  
23 or omissions until after a consultation with legal counsel at Brookstone Law, and through a  
24 complete and thorough investigation of the loan documentation, and a discussion of the  
25 surrounding facts, the fraudulent acts of the Defendants, as described throughout this complaint,  
26 were brought to light on or around April 7, 2012. (True and correct copy of the aforementioned  
27 documents are attached hereto as *Exhibit 24*).

28 35. Plaintiffs Gary Johnson and Joellyn Johnson ("Mr. and Mrs. Johnson") discussed



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1 refinancing an existing mortgage on their property located at 17228 Janell Avenue, Cerritos, CA  
2 90703 and A.P.N.: 7025-004-021 with a Loan Consultant ("Loan Consultant") with  
3 Homecomings Financial Company, LLC, a correspondent of GMAC and Defendants herein  
4 ("Defendants"), and authorized by Defendants to lend on its behalf, in or around March 2007. In  
5 the course of their discussions ranging from March 2007 until May 2007, Defendants and Loan  
6 Consultant steered them into a negatively amortized PayOption ARM in the amount of  
7 \$648,000.00 with an interest rate at 1.500% for a term of 30 years. Little did Mr. Johnson and  
8 Mrs. Johnson know, however, the interest rate was never "fixed" but applied to only their first  
9 monthly payment and could adjust every 12 months thereafter. The maximum interest rate is  
10 9.950%. The amount of Mr. Johnson and Mrs. Johnson's minimum monthly payment was  
11 "fixed" for 12 months and could adjust every 12 months thereafter. When the amount of the  
12 minimum monthly payment is insufficient to cover the amount of interest due, then the amount  
13 of that deficiency is added onto the unpaid principal balance of their loan. The recast point of this  
14 loan is 115% of the original loan amount. The loan was originated by GMAC, on the note and  
15 deed of trust Homecomings Financial Company, LLC is identified as the lender, and the loan is  
16 currently being serviced by GMAC.

17 Defendants and Loan Consultant represented to Mr. and Mrs. Johnson that their monthly  
18 payment would be \$2,236.00. Although the amount of Mr. and Mrs. Johnson's initial, minimum  
19 monthly payment was \$2,236.00, Defendants and Loan Consultant failed to clarify their partially  
20 true representations and advise Mr. Johnson and Mrs. Johnson: (1) how the interest rate on their  
21 loan was calculated; (2) that the initial minimum monthly payment of \$2,236.00 would not  
22 always be available; (3) that the initial minimum monthly payment would not be the permanent  
23 payment under the loan despite Defendants' and Loan Consultant's affirmative representations  
24 to the contrary; (4) that by paying the initial minimum monthly payment they would be  
25 definitively deferring interest on their loan, increasing the principal balance of their loan every  
26 time they made the minimum monthly payment; (5) that by paying the minimum monthly  
27 payment the principal balance of their loan was certain to increase; or (6) their loan would be  
28 recast within a few years and they would be forced to pay considerably higher payments.



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1 The disclosures in Mr. and Mrs. Johnson's loan documents discussing negative  
2 amortization only frame negative amortization as a mere **possibility** rather than a **certainty** when  
3 making the minimum payment. However, the reality was that by making the minimum payment,  
4 negative amortization was a *certainty*. Indeed, the payment schedule set forth in the Truth in  
5 Lending Disclosure Statement ("TILDS"), which set forth what appeared to be the *required*  
6 payment schedule, fails to disclose that making payments pursuant to the TILDS payment  
7 schedule *will* result in negative amortization. Mr. and Mrs. Johnson were not provided, before  
8 entering into the loans, with any other payment schedule or with any informed option to make  
9 payments different than those listed in the TILDS payment schedule. Had Defendants disclosed  
10 that by making the payment pursuant to the TILDS Mr. and Mrs. Johnson would be deferring  
11 interest, or had Defendants disclosed the payment amounts sufficient to avoid negative  
12 amortization from occurring, Mr. and Mrs. Johnson would not have entered into the loan.  
13 **Defendants intentionally omitted a clear disclosure of the nature of Mr. and Mrs.**  
14 **Johnson's loan because giving a clear explanation of how the loan worked would have**  
15 **punctured the illusion of a low-payment, low interest rate loan.**

16 Defendants and Loan Consultant altered Mr. and Mrs. Johnson's loan application without  
17 their knowing consent or authorization as Loan Consultant completed Mr. and Mrs. Johnson's  
18 application without giving Mr. and Mrs. Johnson an opportunity to review the loan application.

19 Defendants and Loan Consultant also explicitly represented to Mr. and Mrs. Johnson that  
20 they could afford their loan and further represented that they could shoulder the additional  
21 financial burden of repaying their loan in consideration of their other existing debts; yet failed to  
22 disclose that the fully amortized monthly payment on the loan was \$4,754.00. Given Mr. and  
23 Mrs. Johnson's true monthly income of \$13,500.00, this represents a "front-end" debt-to-income  
24 ratio, meaning a debt-to-income ratio, before any other debts are even considered, of over 35%.  
25 Defendants and Loan Consultant further represented to Mr. and Mrs. Johnson that they could  
26 rely on the assessment that they were "qualified" to mean that they could afford the loan.  
27 Because of Mr. and Mrs. Johnson's lack of familiarity with how much debt a person can and  
28 should reasonably take on compared to their monthly income, and because Mr. and Mrs. Johnson



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1 reasonably relied on Defendants' and Loan Consultant's expertise that any payment they were  
2 "qualified" for would take into account what the maximum debt a person such as Mr. and Mrs.  
3 Johnson should be shouldering was, Mr. and Mrs. Johnson reasonably believed Defendants' and  
4 Loan Consultant's representations that they could afford their loan and its payments.

5 Although Defendants and the Loan Consultant represented to Mr. and Mrs. Johnson that  
6 they were "qualified" for their loan and could afford their loan and its monthly payments,  
7 Defendants and the Loan Consultant misled Mr. and Mrs. Johnson into believing that their  
8 monthly payments would only be \$2,236.00. Furthermore, at no point did Defendants or Loan  
9 Consultant clarify Mr. and Mrs. Johnson's false belief and advise them that \$2,236.00 would not  
10 be their permanent payment under the loan, or that every time they made a monthly payment in  
11 the amount of \$2,236.00, which is less than interest only, they would be deferring interest on  
12 their loan, increasing the principal balance of their loan.

13 In addition, Defendants and Loan Consultant represented that appraisals conducted by or  
14 on behalf of Defendants were accurate and made in good faith. On or around May 2007, Allstate  
15 Ban Corp, an appraisal company under the direct control and supervision of Defendants,  
16 conducted an appraisal on Mr. and Mrs. Johnson's home, which was fraudulently inflated  
17 \$855,000.00 an intentionally overstated value. The current fair market value of Mr. and Mrs.  
18 Johnson's home is approximately \$354,898.00. Mr. and Mrs. Johnson allege that the appraisal  
19 was artificially inflated and that they have suffered damages in the amount of \$269,398.00  
20 (\$855,000.00-\$354,898.00) due to a substantial loss of equity in their home as a result of  
21 Defendants' fraudulent inflation and other acts described herein.

22 Defendants and Loan Consultant also represented to Mr. and Mrs. Johnson that they  
23 would be able to refinance their loan at a later time. Mr. and Mrs. Johnson relied on this  
24 assurance in deciding to enter into the mortgage contract. However, Mr. and Mrs. Johnson have  
25 not been able to refinance their loan. Defendants and Loan Consultant also represented that it  
26 would modify Mr. and Mrs. Johnson's loan, and Mr. and Mrs. Johnson relied on this  
27 representation in deciding to enter into the loan. In addition, Mr. and Mrs. Johnson were advised  
28 by a representative of Defendants, to stop making payments in order to be eligible for a



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1 modification. Mr. and Mrs. Johnson relied on Defendants' and Defendants' representative's  
2 advice and stopped making their monthly payments causing them to fall even further behind.  
3 However, Mr. and Mrs. Johnson were unable to modify their loan.

4 Furthermore, Defendants and Loan Consultant represented that: (1) Defendants were  
5 reputable and complied with industry standard underwriting guidelines and were engaged in  
6 lending of the highest caliber; (2) property appraisals done by Defendants were accurate and  
7 made in good faith; (3) Mr. and Mrs. Johnson could afford the loan ; (4) they were "qualified"  
8 for their loan; (5) "qualified" meant that they could afford their loan; (6) they would be able to  
9 modify their loan; and (7) they would be able to refinance their loan.

10 Moreover, Defendants and Loan Consultant withheld or incompletely, inaccurately or  
11 otherwise improperly disclosed to Mr. and Mrs. Johnson that: (1) Defendants and Loan  
12 Consultant knew that they could not and would not be able to afford their loan and that there was  
13 a very high probability that they would default and/or be foreclosed upon; (2) Defendants had an  
14 incentive to sell their loan, and did sell their loan at fraudulently inflated prices; (3) Defendants'  
15 and Loan Consultant's "qualification" process was for Defendants' own protection and not  
16 theirs; (4) that Defendants' and Loan Consultant's representations that they were "qualified" to  
17 pay their loan was not intended to communicate that they could actually "afford" the loan which  
18 they were being given; (5) Defendants had abandoned its conventional lending business, prudent  
19 lending standards, and industry standard underwriting guidelines; (6) Defendants influenced the  
20 appraiser to over-value Mr. and Mrs. Johnson's home to require them to borrow more money  
21 with the knowledge that the true value of Mr. and Mrs. Johnson's home was insufficient to  
22 justify the amount of Mr. and Mrs. Johnson's loan; or (7) Defendants knew that due to its  
23 scheme of fraudulently manipulating and inflating property values throughout the State of  
24 California that the real estate market would crash and Mr. and Mrs. Johnson would lose  
25 substantial equity in their home.

26 Based on these misrepresentations and omissions, the material facts concerning Mr. and  
27 Mrs. Johnson's loan were concealed from them, and they decided to move forward with their  
28 loan. On May 21, 2007, Mr. and Mrs. Johnson signed the loan and Deed of Trust, before a



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1 notary. Had they known the truth however, Mr. and Mrs. Johnson would not have accepted the  
2 loan. As a result of Defendants' fraudulent acts described throughout this complaint Mr. and  
3 Mrs. Johnson have lost substantial equity in their home, have damaged or destroyed credit, and at  
4 the time Mr. and Mrs. Johnson entered into the loan their home was worth \$855,000.00, now  
5 their home is worth approximately \$354,898.00. Mr. and Mrs. Johnson did not discover any of  
6 these misrepresentations or omissions until after a consultation with legal counsel at Brookstone  
7 Law, and through a complete and thorough investigation of the loan documentation, and a  
8 discussion of the surrounding facts, the fraudulent acts of the Defendants, as described  
9 throughout this complaint, were brought to light on or around May 24, 2012. (True and correct  
10 copy of the aforementioned documents are attached hereto as *Exhibit 25*).

11 36. Plaintiffs Jun Santos and Rodelina Santos ("Mr. and Mrs. Santos") discussed  
12 refinancing an existing mortgage on their property located at 235 Sea Mist Drive, Vallejo, CA  
13 94561 and A.P.N.: 0079-302-210 with a loan consultant (the "Loan Consultant"), a  
14 representative and authorized agent of Sierra Pacific Mortgage, a correspondent of GMAC and  
15 Defendants herein ("Defendants"), and authorized by Defendants to lend on its behalf, in or  
16 around November 2006. In the course of their discussions ranging from November 2006 until  
17 January 2007, Defendants and Loan Consultant steered them into an adjustable rate mortgage in  
18 the amount of \$448,500.00 with an interest rate at 6.750% for a term of 30 years. Little did Mr.  
19 and Mrs. Santos know, however, payments made during the first ten years of their loan were  
20 Interest-Only. Mr. and Mrs. Santos also were not advised that their interest rate was "fixed" for  
21 only 5 years, and could adjust every 6 months thereafter. This loan was originated by GMAC, on  
22 the note and deed of trust Sierra Pacific Mortgage is identified as the lender, and GMAC  
23 Mortgage is currently servicing the loan.

24 Defendants and Loan Consultant represented to Mr. and Mrs. Santos that their monthly  
25 payment would always be \$2,520.00. Although the amount of Mr. and Mrs. Santos' initial  
26 monthly payment was \$2,520.00, Defendants and Loan Consultant failed to clarify their partially  
27 true representations and advise Mr. and Mrs. Santos that: (1) their monthly payment would not  
28 pay down any of their principal balance during the Interest-Only period, or (2) their monthly



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1 payment would drastically increase at the end of the interest-Only period, or (3) the amount of  
2 their monthly payment would not remain "fixed" for the entire term of the loan.

3 Further, Defendants and Loan Consultant advised them that they were eligible for a Low  
4 Doc Loan. Unbeknownst to them at the time, Defendants and Loan Consultant used this low  
5 documentation requirement to fraudulently inflate their income by \$4,322.00, a factor of 56% ;  
6 and in doing so, Defendants and Loan Consultant caused them to be placed into a loan whose  
7 payments they could not afford given their true, un-inflated monthly income. Defendants and  
8 Loan Consultant altered Mr. and Mrs. Santos' loan application without their knowing consent or  
9 authorization as Loan Consultant completed Mr. and Mrs. Santos' application without giving Mr.  
10 and Mrs. Santos an opportunity to review the loan application.

11 Defendants and Loan Consultant also explicitly represented to Mr. and Mrs. Santos that  
12 they could afford their loan and further represented that they could shoulder the additional  
13 financial burden of repaying their loan in consideration of their other existing debts; yet failed to  
14 disclose that the fully amortized monthly payment on the loan was \$3,643.38. Given Mr. and  
15 Mrs. Santos' true monthly income of \$7,631.00, this represents a "front-end" debt-to-income  
16 ratio, meaning a debt-to-income ratio, before any other debts are even considered, of over 47%-  
17 in excess of industry standard underwriting guidelines, and in excess of Defendants' own  
18 underwriting guidelines. Defendants and Loan Consultant further represented to Mr. and Mrs.  
19 Santos that they could rely on the assessment that they were "qualified" to mean that they could  
20 afford the loan. Because of Mr. and Mrs. Santos' lack of familiarity with how much debt a  
21 person can and should reasonably take on compared to their monthly income, and because Mr.  
22 and Mrs. Santos reasonably relied on Defendants' and Loan Consultant's expertise that any  
23 payment they were "qualified" for would take into account what the maximum debt a person  
24 such as Mr. and Mrs. Santos should be shouldering was, Mr. and Mrs. Santos reasonably  
25 believed Defendants' and Loan Consultant's representations that they could afford their loan and  
26 its payments.

27 Although Defendants and Loan Consultant represented to Mr. and Mrs. Santos that they  
28 were "qualified" for their loan and could afford their loan and its monthly payments, Defendants



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1 and Loan Consultant misled Mr. and Mrs. Santos into believing that their monthly payments  
2 would always only be \$2,520.00. Furthermore, at no point did Defendants or Loan Consultant  
3 clarify Mr. and Mrs. Santos' false belief and advise them that \$2,520.00 would not be their  
4 permanent payment under the loan, or that every time they made a monthly payment in the  
5 amount of \$2,520.00, they were not paying down any of their principal balance.

6 In addition, Defendants and Loan Consultant represented that appraisals conducted by or  
7 on behalf of Defendants were accurate and made in good faith. On or around December 21,  
8 2006, an appraisal company under the direct control and supervision of Defendants conducted an  
9 appraisal on Name's home, which was fraudulently inflated to an intentionally overstated value.  
10 Mr. and Mrs. Santos' loan documentation indicates that her home was worth \$560,000.00 at the  
11 time they entered into their loan. The current fair market value of Name's home is approximately  
12 \$222,300.00. Mr. and Mrs. Santos allege that the appraisal was artificially inflated, and that they  
13 have suffered damages in the amount of \$337,700.00 (\$560,000.00-\$222,300.00) due to a  
14 substantial loss of equity in their home as a result of Defendants' fraudulent inflation and other  
15 acts described herein.

16 Defendants and Loan Consultant also represented to Mr. and Mrs. Santos that they would  
17 be able to refinance their loan at a later time. Mr. and Mrs. Santos relied on this assurance in  
18 deciding to enter into the mortgage contract. However, Mr. and Mrs. Santos have not been able  
19 to refinance their loan. Defendants and Loan Consultant also represented that it would modify  
20 Mr. and Mrs. Santos' loan, and Mr. and Mrs. Santos relied on this representation in deciding to  
21 enter into the loan. However, Defendants refused to permanently modify their loan.

22 Furthermore, Defendants and Loan Consultant represented that: (1) Defendants were  
23 reputable and complied with industry standard underwriting guidelines and were engaged in  
24 lending of the highest caliber; (2) property appraisals done by Defendants were accurate and  
25 made in good faith; (3) Mr. and Mrs. Santos could afford the loan; (4) they were "qualified" for  
26 their loan; (5) "qualified" meant that they could afford their loan; (6) they would be able to  
27 modify their loan (7) they would be able to refinance their loan.

28 Moreover, Defendants and Loan Consultant withheld or incompletely, inaccurately or



APPENDIX A TO AMENDED COMPLAINT IN SUPPORT OF AMENDED PROOF OF CLAIM

1 otherwise improperly disclosed to Mr. and Mrs. Santos that: (1) Defendants and Loan Consultant  
2 knew that they could not and would not be able to afford their loan and that there was a very high  
3 probability that they would default and/or be foreclosed upon; (2) Defendants had an incentive to  
4 sell their loan, and did sell their loan at fraudulently inflated prices; (3) Defendants' and Loan  
5 Consultant's "qualification" process was for Defendants' own protection and not theirs; (4) that  
6 Defendants' and Loan Consultant's representations that they were "qualified" to pay their loan  
7 was not intended to communicate that they could actually "afford" the loan which they were  
8 being given; (5) Defendants had abandoned its conventional lending business, prudent lending  
9 standards, and industry standard underwriting guidelines; (6) Defendants influenced the appraiser  
10 to over-value Mr. and Mrs. Santos' home to require them to borrow more money with the  
11 knowledge that the true value of Mr. and Mrs. Santos' home was insufficient to justify the  
12 amount of Mr. and Mrs. Santos' loan; or (7) Defendants knew that due to its scheme of  
13 fraudulently manipulating and inflating property values throughout the State of California that  
14 the real estate market would crash and Mr. and Mrs. Santos would lose substantial equity in their  
15 home.

16 Based on these misrepresentations and omissions, the material facts concerning Mr. and  
17 Mrs. Santos' loan were concealed from them, and they decided to move forward with their loan.  
18 On January 10, 2007, Mr. and Mrs. Santos signed the loan and Deed of Trust, before a notary.  
19 Had they known the truth however, Mr. and Mrs. Santos would not have accepted the loan. As a  
20 result of Defendants' fraudulent acts described throughout this complaint Mr. and Mrs. Santos  
21 have lost substantial equity in their home, have damaged or destroyed credit, and at the time Mr.  
22 and Mrs. Santos entered into the loan their home was worth \$560,000.00, now their home is  
23 worth approximately \$222,300.00. Mr. and Mrs. Santos did not discover any of these  
24 misrepresentations or omissions until after a consultation with legal counsel at Brookstone Law,  
25 and through a complete and thorough investigation of the loan documentation, and a discussion  
26 of the surrounding facts, the fraudulent acts of the Defendants, as described throughout this  
27 complaint, were brought to light on or around June 20, 2012. (True and correct copy of the  
28 aforementioned documents are attached hereto as *Exhibit 26*).



**APPENDIX A TO AMENDED COMPLAINT IN SUPPORT OF AMENDED PROOF OF CLAIM**

1           37. Plaintiffs Michael Brown and Claudinette Brown (“collectively referred to as  
2 “Mr. and Mrs. Brown”) discussed refinancing an existing mortgage on their property located at  
3 1023 East Cartagena Street, Long Beach, CA 90807 and A.P.N.:7138-003-014 with a Loan  
4 Consultant (“Loan Consultant”), a representative and authorized agent of Homecoming Financial  
5 Network, Incorporation and Defendants herein (the “Defendants”) in or around July 2006. In the  
6 course of their discussions ranging from July 2006 until September 2006, Defendants and Loan  
7 Consultant steered them into an adjustable rate mortgage in the amount of \$795,000.00 with an  
8 interest rate at 1% for a term of 30 years. Little did Mr. and Mrs. Brown know, however, their  
9 loan was a negatively amortized PayOption ARM. Mr. and Mrs. Brown were not advised that the  
10 interest rate was never “fixed” but applied to only their first monthly payment and could adjust  
11 every month thereafter. The amount of Mr. and Mrs. Brown’s minimum monthly payment was  
12 “fixed” for 12 months and could adjust every 12 months thereafter. When the amount of the  
13 minimum monthly payment is insufficient to cover the amount of interest due, then the amount  
14 of that deficiency is added onto the unpaid principal balance of their loan. The recast point of this  
15 loan is 115% of the original loan amount. This loan was originated by GMAC, on the note and  
16 deed of trust Homecoming Financial Network, Incorporation is identified as the lender, and  
17 Nationstar Mortgage LLC is currently servicing the loan.

18           Defendants and Loan Consultant recommended the loan, representing that: 1) Mr. and  
19 Mrs. Brown would develop great equity 2) Mr. and Mrs. Brown can refinance when their interest  
20 rate changes 3) Mr. and Mrs. Brown would be able to pay off their debt and 4) Mr. and Mrs.  
21 Brown would be paying \$500 less each month on their mortgage payment each month.  
22 Defendants and Loan Consultant represented to Mr. and Mrs. Brown that their monthly payment  
23 would always be \$2,557.03. Although the amount of Mr. and Mrs. Brown’s initial minimum  
24 monthly payment was \$2,557.03, Defendants and Loan Consultant failed to clarify their partially  
25 true representations and advise Mr. and Mrs. Brown: (1) how the interest rate on their loan was  
26 calculated; (2) that the initial minimum monthly payment of \$2,557.03 would not always be  
27 available; (3) that the initial minimum monthly payment would not be the permanent payment  
28 under the loan despite Defendants’ and Loan Consultant’s affirmative representations to the



APPENDIX A TO AMENDED COMPLAINT IN SUPPORT OF AMENDED PROOF OF CLAIM

1 contrary; (4) that by paying the initial minimum monthly payment they would be definitively  
2 deferring interest on their loan, increasing the principal balance of their loan every time they  
3 made the minimum monthly payment; (5) that by paying the minimum monthly payment the  
4 principal balance of their loan was certain to increase; or (6) their loan would be recast within a  
5 few years and they would be forced to pay considerably higher payments.

6 The disclosures in Mr. and Mrs. Brown' loan documents discussing negative  
7 amortization, only frame negative amortization as a mere **possibility** rather than a **certainty**  
8 when making the minimum payment. However the reality was that by making the minimum  
9 payment, negative amortization was a certainty. Indeed, the payment schedule set forth in the  
10 Truth in Lending Disclosure Statement ("TILDS") which set forth what appeared to be the  
11 required payment schedule fails to disclose that making payments pursuant to the TILDS  
12 payment schedule will result in negative amortization. Mr. and Mrs. Brown were not provided,  
13 before entering into the loans, with any other payment schedule or with any informed option to  
14 make payments different than those listed in the TILDS payment schedule. Had Defendants  
15 disclosed that by making the payment pursuant to the TILDS Mr. and Mrs. Brown would be  
16 deferring interest, or had they disclosed the payment amounts sufficient to avoid negative  
17 amortization from occurring, Mr. and Mrs. Brown would not have entered into the loans.  
18 **Defendants intentionally omitted a clear disclosure of the nature of Mr. and Mrs. Brown'**  
19 **loans because giving a clear explanation of how the loan worked would have punctured the**  
20 **illusion of a low-payment, low interest rate loan.**

21 Further, Defendants and Loan Consultant advised them that they were eligible for a Low  
22 Doc Loan. Unbeknownst to them at the time, Defendants and Loan Consultant used this low  
23 documentation requirement to fraudulently inflate their income by \$12,600.00, a factor of 196%;  
24 and in doing so, Defendants and Loan Consultant caused them to be placed into a loan whose  
25 payments they could not afford given their true, *un-inflated* monthly income. Defendants and  
26 Loan Consultant altered Mr. and Mrs. Brown's loan application without their knowing consent  
27 or authorization as Loan Consultant completed Mr. and Mrs. Brown's application without giving  
28 Mr. and Mrs. Brown an opportunity to review the loan application.



**APPENDIX A TO AMENDED COMPLAINT IN SUPPORT OF AMENDED PROOF OF CLAIM**

1 Defendants and Loan Consultant also explicitly represented to Mr. and Mrs. Brown that  
2 they could afford their loan and further represented that they could shoulder the additional  
3 financial burden of repaying their loan in consideration of their other existing debts; yet failed to  
4 disclose that the fully amortized monthly payment on the loan was \$5,634.07. Given Mr. and  
5 Mrs. Brown's true monthly income of \$5,634.07, this represents a "front-end" debt-to-income  
6 ratio, meaning a debt-to-income ratio, before any other debts are even considered, of over  
7 grossly in excess of industry standard underwriting guidelines, and in excess of Defendants' own  
8 underwriting guidelines). Defendants and Loan Consultant further represented to Mr. and Mrs.  
9 Brown that they could rely on the assessment that they were "qualified" to mean that they could  
10 afford the loan. Because of Mr. and Mrs. Brown's lack of familiarity with how much debt a  
11 person can and should reasonably take on compared to their monthly income, and because Mr.  
12 and Mrs. Brown reasonably relied on Defendants' and Loan Consultant's expertise that any  
13 payment they were "qualified" for would take into account what the maximum debt a person  
14 such as Mr. and Mrs. Brown should be shouldering was, Mr. and Mrs. Brown reasonably  
15 believed Defendants' and Loan Consultant's representations that they could afford their loan and  
16 its payments.

17 Although Defendants and the Loan Consultant represented to Mr. and Mrs. Brown that  
18 they were "qualified" for their loan and could afford their loan and its monthly payments,  
19 Defendants and the Loan Consultant misled Mr. and Mrs. Brown into believing that their  
20 monthly payments would always only be \$2,557.03. Furthermore, at no point did Defendants or  
21 Loan Consultant clarify Mr. and Mrs. Brown's false belief and advise them that \$2,557.03 would  
22 not be their permanent payment under the loan, or that every time they made a monthly payment  
23 in the amount of \$2,557.03, which is less than interest only, they would be deferring interest on  
24 their loan, increasing the principal balance of their loan.

25 In addition, Defendants and Loan Consultant represented that appraisals conducted by or  
26 on behalf of Defendants were accurate and made in good faith. On August 22, 2006, Fairway  
27 Appraisal Service, a company under the direct control and supervision of Defendants, conducted  
28 an appraisal on Mr. and Mrs. Brown's home, which was fraudulently inflated to \$1,140,000.00 -



**APPENDIX A TO AMENDED COMPLAINT IN SUPPORT OF AMENDED PROOF OF CLAIM**

1 an intentionally overstated value. The current fair market value of Mr. and Mrs. Brown's home is  
2 approximately \$586,330.00. Mr. and Mrs. Brown allege that the appraisal was artificially  
3 inflated, and that they have suffered damages in the amount of \$553,670.00 (\$1,140,000.00-  
4 \$586,330.00) due to a substantial loss of equity in their home as a result of Defendants'  
5 fraudulent inflation and other acts described herein.

6 Due to the economic crash caused by Defendants' fraudulent acts described throughout  
7 the complaint, Mr. and Mrs. Brown suffered from financial hardship because of the huge drop in  
8 income in the family. Mr. and Mrs. Brown sought to refinance their loan into a better loan. Mr.  
9 and Mrs. Brown believed that that they would be able to refinance their loan since at the time of  
10 they entered the loan in 2006, Defendants and Loan Consultant represented to Mr. and Mrs.  
11 Brown that they would be able to refinance their loan at a later time, and Mr. and Mrs. Brown  
12 relied on this assurance in deciding to enter into the loan. However, Mr. and Mrs. Brown have  
13 not been able to refinance because there was negative equity in their house.

14 Mr. and Mrs. Brown also applied for a loan modification to get their loan affordable. Mr.  
15 and Mrs. Brown were advised by a representative and authorized agent of Defendants to stop  
16 making payments in order to be eligible for a modification. Mr. and Mrs. Brown relied on  
17 Defendants' and Defendants' representative's advice and stopped making their monthly  
18 payments causing them to fall even further behind. However, Defendants have rejected Mr. and  
19 Mrs. Brown's modification 4 times. On the first attempt, the modification was denied due to the  
20 fact that Mr. and Mrs. Brown were current on their loan. Defendants denied the modification the  
21 2nd time because Mr. and Mrs. Brown did not qualify for HAMP. The application was denied  
22 the third time because of the negative NPV. Finally, on the fourth try, Defendants refused to  
23 modify Mr. and Mrs. Brown's loan since Defendants determined that Mr. and Mrs. Brown was  
24 not eligible for HAMP. As of now, Defendants have not yet modified Mr. and Mrs. Brown's  
25 loan.

26 Furthermore, Defendants and Loan Consultant represented that: (1) Defendants were  
27 reputable and complied with industry standard underwriting guidelines and were engaged in  
28 lending of the highest caliber; (2) property appraisals done by Defendants were accurate and



**APPENDIX A TO AMENDED COMPLAINT IN SUPPORT OF AMENDED PROOF OF CLAIM**

1 made in good faith; (3) Mr. and Mrs. Brown could afford the loan; (4) they were “qualified” for  
2 their loan; (5) “qualified” meant that they could afford their loan; and (6) they would be able to  
3 refinance their loan in the future.

4 Moreover, Defendants and Loan Consultant withheld or incompletely, inaccurately or  
5 otherwise improperly disclosed to Mr. and Mrs. Brown that: (1) Defendants and Loan Consultant  
6 knew that they could not and would not be able to afford their loan and that there was a very high  
7 probability that they would default and/or be foreclosed upon; (2) Defendants had an incentive to  
8 sell their loan, and did sell their loan at fraudulently inflated prices; (3) Defendants’ and Loan  
9 Consultant’s “qualification” process was for Defendants’ own protection and not theirs; (4) that  
10 Defendants’ and Loan Consultant’s representations that they were “qualified” to pay their loan  
11 was not intended to communicate that they could actually “afford” the loan which they were  
12 being given; (5) Defendants had abandoned its conventional lending business, prudent lending  
13 standards, and industry standard underwriting guidelines; (6) Defendants influenced the  
14 appraiser to over-value Mr. and Mrs. Brown’s home to require them to borrow more money with  
15 the knowledge that the true value of Mr. and Mrs. Brown’s home was insufficient to justify the  
16 amount of Mr. and Mrs. Brown’s loan; or (7) Defendants knew that due to its scheme of  
17 fraudulently manipulating and inflating property values throughout the State of California that  
18 the real estate market would crash and Mr. and Mrs. Brown would lose substantial equity in their  
19 home.

20 Based on these misrepresentations and omissions, the material facts concerning Mr. and  
21 Mrs. Brown’s loan were concealed from them, and they decided to move forward with their loan.  
22 On September 6, 2006, Mr. and Mrs. Brown signed the loan and Deed of Trust, before a notary.  
23 Had they known the truth however, Mr. and Mrs. Brown would not have accepted the loan. As a  
24 result of Defendants’ fraudulent acts described throughout this complaint Mr. and Mrs. Brown  
25 have lost substantial equity in their home, have damaged or destroyed credit, and at the time Mr.  
26 and Mrs. Brown entered into the loan their home was worth \$1,140,000.00, now their home is  
27 worth approximately \$586,330.00. Mr. and Mrs. Brown did not discover any of these  
28 misrepresentations or omissions until after a consultation with legal counsel at Brookstone Law,



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1 and through a complete and thorough investigation of the loan documentation, and a discussion  
2 of the surrounding facts, the fraudulent acts of the Defendants, as described throughout this  
3 complaint, were brought to light on or around May 21, 2012. (True and correct copy of the  
4 aforementioned documents are attached hereto as *Exhibit 27*).

5 38. Plaintiffs Martin Kassowitz ("Kassowitz") and Shirley Kaplan ("Kaplan")  
6 discussed refinancing an existing mortgage on their property located at 17545 Baltar Street,  
7 Northridge, CA 91325 and A.P.N.: 2201-004-026 with a Loan Consultant ("Loan Consultant"), a  
8 representative and authorized agent of Greenpoint Mortgage Funding, a correspondent of GMAC  
9 and Defendants herein (the "Defendants") in or around August 2006. In the course of their  
10 discussions ranging from August 2006 until October 2006, Defendants and Loan Consultant  
11 steered them into an adjustable rate mortgage in the amount of \$470,000.00 with an interest rate  
12 at 1% for a term of 30 years. Little did Kassowitz and Kaplan know, however, their loan was a  
13 negatively amortized PayOption ARM. Kassowitz and Kaplan were not advised that the interest  
14 rate was never "fixed" but applied to only their first monthly payment and could adjust every  
15 month thereafter. The amount of Kassowitz's and Kaplan's minimum monthly payment was  
16 "fixed" for 12 months and could adjust every 12 months thereafter. When the amount of the  
17 minimum monthly payment is insufficient to cover the amount of interest due, then the amount  
18 of that deficiency is added onto the unpaid principal balance of their loan. The recast point of this  
19 loan is 110% of the original loan amount. This loan was originated by GMAC, on the note and  
20 deed of trust Greenpoint Mortgage Funding is identified as the lender, and GMAC is currently  
21 servicing the loan.

22 Defendants and Loan Consultant represented to Kassowitz and Kaplan that their monthly  
23 payment would always be \$1,511.71. Although the amount of Kassowitz's and Kaplan's initial  
24 minimum monthly payment was \$1,511.71, Defendants and Loan Consultant failed to clarify  
25 their partially true representations and advise Kassowitz and Kaplan: (1) how the interest rate on  
26 their loan was calculated; (2) that the initial minimum monthly payment of \$1,511.71 would not  
27 always be available; (3) that the initial minimum monthly payment would not be the permanent  
28 payment under the loan despite Defendants' and Loan Consultant's affirmative representations



**APPENDIX A TO AMENDED COMPLAINT IN SUPPORT OF AMENDED PROOF OF CLAIM**

1 to the contrary; (4) that by paying the initial minimum monthly payment they would be  
2 definitively deferring interest on their loan, increasing the principal balance of their loan every  
3 time they made the minimum monthly payment; (5) that by paying the minimum monthly  
4 payment the principal balance of their loan was certain to increase; or (6) their loan would be  
5 recast within a few years and they would be forced to pay considerably higher payments.

6 The disclosures in Kassowitz's and Kaplan's loan documents discussing negative  
7 amortization, only frame negative amortization as a mere **possibility** rather than a **certainty**  
8 when making the minimum payment. However the reality was that by making the minimum  
9 payment, negative amortization was a certainty. Indeed, the payment schedule set forth in the  
10 Truth in Lending Disclosure Statement ("TILDS") which set forth what appeared to be the  
11 required payment schedule fails to disclose that making payments pursuant to the TILDS  
12 payment schedule will result in negative amortization. Kassowitz and Kaplan were not provided,  
13 before entering into the loans, with any other payment schedule or with any informed option to  
14 make payments different than those listed in the TILDS payment schedule. Had Defendants  
15 disclosed that by making the payment pursuant to the TILDS Kassowitz and Kaplan would be  
16 deferring interest, or had they disclosed the payment amounts sufficient to avoid negative  
17 amortization from occurring, Kassowitz and Kaplan would not have entered into the loans.  
18 **Defendants intentionally omitted a clear disclosure of the nature of Kassowitz's and**  
19 **Kaplan's loans because giving a clear explanation of how the loan worked would have**  
20 **punctured the illusion of a low-payment, low interest rate loan.**

21 Further, Defendants and Loan Consultant advised them that they were eligible for a Low  
22 Doc Loan. Unbeknownst to them at the time, Defendants and Loan Consultant used this low  
23 documentation requirement to fraudulently inflate their income by \$1,020.00, a factor of 14%;  
24 and in doing so, Defendants and Loan Consultant caused them to be placed into a loan whose  
25 payments they could not afford given their true, *un-inflated* monthly income. Defendants and  
26 Loan Consultant altered Kassowitz's and Kaplan's loan application without their knowing  
27 consent or authorization as Loan Consultant completed Kassowitz's and Kaplan's application  
28 without giving Kassowitz and Kaplan an opportunity to review the loan application.



**APPENDIX A TO AMENDED COMPLAINT IN SUPPORT OF AMENDED PROOF OF CLAIM**

1 Defendants and Loan Consultant also explicitly represented to Kassowitz and Kaplan that  
2 they could afford their loan and further represented that they could shoulder the additional  
3 financial burden of repaying their loan in consideration of their other existing debts; yet failed to  
4 disclose that the fully amortized monthly payment on the loan was \$3,502.58. Given Kassowitz's  
5 and Kaplan's true monthly income of \$6,988.00, this represents a "front-end" debt-to-income  
6 ratio, meaning a debt-to-income ratio, before any other debts are even considered, of over 50% -  
7 in excess of industry standard underwriting guidelines, and in excess of Defendants' own  
8 underwriting guidelines). Defendants and Loan Consultant further represented to Kassowitz and  
9 Kaplan that they could rely on the assessment that they were "qualified" to mean that they could  
10 afford the loan. Because of Kassowitz and Kaplan's lack of familiarity with how much debt a  
11 person can and should reasonably take on compared to their monthly income, and because  
12 Kassowitz and Kaplan reasonably relied on Defendants' and Loan Consultant's expertise that  
13 any payment they were "qualified" for would take into account what the maximum debt a person  
14 such as Kassowitz and Kaplan should be shouldering was, Kassowitz and Kaplan reasonably  
15 believed Defendants' and Loan Consultant's representations that they could afford their loan and  
16 its payments.

17 Although Defendants and the Loan Consultant represented to Kassowitz and Kaplan that  
18 they were "qualified" for their loan and could afford their loan and its monthly payments,  
19 Defendants and the Loan Consultant misled Kassowitz and Kaplan into believing that their  
20 monthly payments would always only be \$1,511.71. Furthermore, at no point did Defendants or  
21 Loan Consultant clarify Kassowitz's and Kaplan's false belief and advise them that \$1,511.71  
22 would not be their permanent payment under the loan, or that every time they made a monthly  
23 payment in the amount of \$1,511.71, which is less than interest only, they would be deferring  
24 interest on their loan, increasing the principal balance of their loan.

25 In addition, Defendants and Loan Consultant represented that appraisals conducted by or  
26 on behalf of Defendants were accurate and made in good faith. On or around September 12,  
27 2006, an appraisal company under the direct control and supervision of Defendants conducted an  
28 appraisal on Kassowitz's and Kaplan's home, which was fraudulently inflated an intentionally



**APPENDIX A TO AMENDED COMPLAINT IN SUPPORT OF AMENDED PROOF OF CLAIM**

1 overstated value. Kassowitz's and Kaplan's loan documentation indicates that their home was  
2 worth \$610,000.00 at the time they entered into their loan. The current fair market value of  
3 Kassowitz's and Kaplan's home is approximately \$296,207.00. Kassowitz and Kaplan allege that  
4 the appraisal was artificially inflated, and that they have suffered damages in the amount of  
5 \$313,793.00 (\$610,000.00-\$296,207.00) due to a substantial loss of equity in their home as a  
6 result of Defendants' fraudulent inflation and other acts described herein.

7 Defendants and Loan Consultant also represented to Kassowitz and Kaplan that they  
8 would be able to refinance their loan at a later time. Kassowitz and Kaplan relied on this  
9 assurance in deciding to enter into the mortgage contract. However, Kassowitz and Kaplan have  
10 not been able to refinance their loan. Defendants and Loan Consultant also represented that it  
11 would modify Kassowitz's and Kaplan's loan, and Kassowitz and Kaplan relied on this  
12 representation in deciding to enter into the loan. In addition, March 19, 2012 Kassowitz and  
13 Kaplan were advised by a representative and authorized agent of Defendants, to stop making  
14 payments in order to be eligible for a modification. Kassowitz and Kaplan relied on Defendants'  
15 and Defendants' Representative's advice and stopped making their monthly payments causing  
16 them to fall even further behind. However, Defendants refused to permanently modify their loan.

17 Furthermore, Defendants and Loan Consultant represented that: (1) Defendants were  
18 reputable and complied with industry standard underwriting guidelines and were engaged in  
19 lending of the highest caliber; (2) property appraisals done by Defendants were accurate and  
20 made in good faith; (3) Kassowitz and Kaplan could afford the loan; (4) they were "qualified"  
21 for their loan; (5) "qualified" meant that they could afford their loan; and (6) they would be able  
22 to refinance their loan in the future.

23 Moreover, Defendants and Loan Consultant withheld or incompletely, inaccurately or  
24 otherwise improperly disclosed to Kassowitz and Kaplan that: (1) Defendants and Loan  
25 Consultant knew that they could not and would not be able to afford their loan and that there was  
26 a very high probability that they would default and/or be foreclosed upon; (2) Defendants had an  
27 incentive to sell their loan, and did sell their loan at fraudulently inflated prices; (3) Defendants'  
28 and Loan Consultant's "qualification" process was for Defendants' own protection and not



APPENDIX A TO AMENDED COMPLAINT IN SUPPORT OF AMENDED PROOF OF CLAIM

1 theirs; (4) that Defendants' and Loan Consultant's representations that they were "qualified" to  
2 pay their loan was not intended to communicate that they could actually "afford" the loan which  
3 they were being given; (5) Defendants had abandoned its conventional lending business, prudent  
4 lending standards, and industry standard underwriting guidelines; (6) Defendants influenced the  
5 appraiser to over-value Kassowitz's and Kaplan's home to require them to borrow more money  
6 with the knowledge that the true value of Kassowitz's and Kaplan's home was insufficient to  
7 justify the amount of Kassowitz's and Kaplan's loan; or (7) Defendants knew that due to its  
8 scheme of fraudulently manipulating and inflating property values throughout the State of  
9 California that the real estate market would crash and Kassowitz and Kaplan would lose  
10 substantial equity in their home.

11 Based on these misrepresentations and omissions, the material facts concerning  
12 Kassowitz and Kaplan's loan were concealed from them, and they decided to move forward with  
13 their loan. On October 3, 2006, Kassowitz and Kaplan signed the loan and Deed of Trust, before  
14 a notary. Had they known the truth however, Kassowitz and Kaplan would not have accepted the  
15 loan. As a result of Defendants' fraudulent acts described throughout this complaint Kassowitz  
16 and Kaplan have lost substantial equity in their home, have damaged or destroyed credit, and at  
17 the time Kassowitz and Kaplan entered into the loan their home was worth \$610,000.00, now  
18 their home is worth approximately \$296,207.00. Kassowitz and Kaplan did not discover any of  
19 these misrepresentations or omissions until after a consultation with legal counsel at Brookstone  
20 Law, and through a complete and thorough investigation of the loan documentation, and a  
21 discussion of the surrounding facts, the fraudulent acts of the Defendants, as described  
22 throughout this complaint, were brought to light on or around September 20, 2012. (True and  
23 correct copy of the aforementioned documents are attached hereto as *Exhibit 28*).

24 39. Plaintiff Henry Completo ("Completo") discussed obtaining a mortgage to  
25 purchase his home located at 2802 El Dorado Street, Torrance, CA 90503, A.P.N.: 7362-016-006  
26 with a Loan Consultant ("Loan Consultant"), a representative and authorized agent of Southstar  
27 Funding LLC, a correspondent of GMAC and Defendants herein (the "Defendants") in or around  
28 December 2006. In the course of their discussions ranging from December 2006 until February



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1 2007, Defendants and Loan Consultant steered him into an adjustable rate mortgage in the  
2 amount of \$585,000.00 with an interest rate at 7.05% for a term of 30 years. Little did Completo  
3 know, however, payments made during the first 5year of his loan were Interest-Only. Completo  
4 also was not advised that his interest rate was “fixed” for only 2 years, and could adjust every 6  
5 months thereafter. This loan was originated by GMAC, on the note and deed of trust Southstar  
6 Funding LLC is identified as the lender, and GMAC is currently servicing the loan.

7 Defendants and Loan Consultant represented to Completo that his monthly payment  
8 would always be \$3,436.88. Although the amount of Completo’s initial monthly payment was  
9 \$3,436.88. Defendants and Loan Consultant failed to clarify their partially true representations  
10 and advise Completo that: (1) his monthly payment would not pay down any of their principal  
11 balance during the Interest-Only period, or (2) his monthly payment would drastically increase at  
12 the end of the Interest-Only period, or (3) the amount of his initial monthly payment would not  
13 remain “fixed” for the entire term of the loan.

14 Further, Defendants and Loan Consultant advised him that he was eligible for a Low Doc  
15 Loan. Unbeknownst to him at the time, Defendants and Loan Consultant used this low  
16 documentation requirement to fraudulently inflate his income by \$2,327.49, a factor of 36%; and  
17 in doing so, Defendants and Loan Consultant caused him to be placed into a loan whose  
18 payments he could not afford given his true, *un-inflated* monthly income. Defendants and Loan  
19 Consultant altered Completo’s loan application without his knowing consent or authorization as  
20 Loan Consultant completed Completo’s application without giving Completo an opportunity to  
21 review the loan application.

22 Defendants and Loan Consultant also explicitly represented to Completo that he could  
23 afford his loan and further represented that he could shoulder the additional financial burden of  
24 repaying his loan in consideration of his other existing debts; yet failed to disclose that the fully  
25 amortized monthly payment on the loan was \$4,629.38. Given Completo’s true monthly income  
26 of \$6,400.00, this represents a “front-end” debt-to-income ratio, meaning a debt-to-income ratio,  
27 before any other debts are even considered, of over 72% -in excess of industry standard  
28 underwriting guidelines, and in excess of Defendants’ own underwriting guidelines). Defendants



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1 and Loan Consultant further represented to Completo that he could rely on the assessment that he  
2 was “qualified” to mean that he could afford the loan. Because of Completo’s lack of familiarity  
3 with how much debt a person can and should reasonably take on compared to his monthly  
4 income, and because Completo reasonably relied on Defendants’ and Loan Consultant’s  
5 expertise that any payment he was “qualified” for would take into account what the maximum  
6 debt a person such as Completo should be shouldering was, Completo reasonably believed  
7 Defendants’ and Loan Consultant’s representations that he could afford his loan and its  
8 payments.

9 Although Defendants and Loan Consultant represented to Completo that he was  
10 “qualified” for his loan and could afford his loan and its monthly payments, Defendants and  
11 Loan Consultant misled Completo into believing that his monthly payments would always only  
12 be \$3,436.88. Furthermore, at no point did Defendants or Loan Consultant clarify Completo’s  
13 false belief and advise him that \$3,436.88 would not be his permanent payment under the loan,  
14 or that every time he made a monthly payment in the amount of \$3,436.88, he was not paying  
15 down any of his principal balance.

16 In addition, Defendants and Loan Consultant represented that appraisals conducted by or  
17 on behalf of Defendants were accurate and made in good faith. On or around February 3, 2007,  
18 an appraisal company under the direct control and supervision of Defendants conducted an  
19 appraisal on Completo’s home, which was fraudulently inflated to an intentionally overstated  
20 value. Completo’s loan documentation indicates that his home was worth \$800,000.00 at the  
21 time he entered into their loan. The current fair market value of Completo’s home is  
22 approximately \$535,695.00. Completo alleges that the appraisal was artificially inflated, and that  
23 he has suffered damages in the amount of \$264,305.00 (\$800,000.00-\$264,305.00) due to a  
24 substantial loss of equity in his home as a result of Defendants’ fraudulent inflation and other  
25 acts described herein.

26 Defendants and Loan Consultant also represented to Completo that he would be able to  
27 refinance his loan at a later time. Completo relied on this assurance in deciding to enter into the  
28 mortgage contract. However, Completo has not been able to refinance his loan. Defendants and



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1 Loan Consultant also represented that it would modify Completo's loan, and Completo relied on  
2 this representation in deciding to enter into the loan.

3 Completo struggled to make the monthly mortgage payment when the interest rate  
4 increased 2 years after he entered into the loan. In addition, Completo lost his job shortly after he  
5 suffered from the payment shock when the interest-only period of his loan ended. In other words,  
6 Completo had to make the monthly payment including both the principal and interest. Therefore,  
7 Completo applied for a loan modification with Defendants to lower his payments. Completo was  
8 advised by Defendants and a representative and authorized agent of Defendants, to stop making  
9 payments in order to be eligible for a modification. Completo relied on Defendants' and  
10 Defendants' representative and authorized agent's advice and stopped making his monthly  
11 payments causing him to fall even further behind. However, Defendants refused to modify  
12 Completo's loan because Completo was informed that he already had an active HAMP  
13 modification. Completo has not received any assistance from Defendants in getting his loan  
14 modified.

15 Furthermore, Defendants and Loan Consultant represented that: (1) Defendants were  
16 reputable and complied with industry standard underwriting guidelines and were engaged in  
17 lending of the highest caliber; (2) property appraisals done by Defendants were accurate and  
18 made in good faith; (3) Completo could afford the loan; (4) he was "qualified" for his loan; (5)  
19 "qualified" meant that he could afford his loan; (6) Defendants would modify his loan in the  
20 future; and (7) he would be able to refinance his loan in the future.

21 Moreover, Defendants and Loan Consultant withheld or incompletely, inaccurately or  
22 otherwise improperly disclosed to Completo that: (1) Defendants and Loan Consultant knew that  
23 he could not and would not be able to afford his loan and that there was a very high probability  
24 that he would default and/or be foreclosed upon; (2) Defendants had an incentive to sell his loan,  
25 and did sell his loan at fraudulently inflated prices; (3) Defendants' and Loan Consultant's  
26 "qualification" process was for Defendants' own protection and not his; (4) that Defendants' and  
27 Loan Consultant's representations that he was "qualified" to pay his loan was not intended to  
28 communicate that he could actually "afford" the loan which he was being given; (5) Defendants



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1 had abandoned its conventional lending business, prudent lending standards, and industry  
2 standard underwriting guidelines; (6) Defendants influenced the appraiser to over-value  
3 Completo's home to require him to borrow more money with the knowledge that the true value  
4 of Completo's home was insufficient to justify the amount of Completo's loan; or (7) Defendants  
5 knew that due to its scheme of fraudulently manipulating and inflating property values  
6 throughout the State of California that the real estate market would crash and Completo would  
7 lose substantial equity in his home.

8 Based on these misrepresentations and omissions, the material facts concerning  
9 Completo's loan were concealed from him, and he decided to move forward with his loan. On  
10 February 27, 2007, Completo signed the loan and Deed of Trust, before a notary. Had he known  
11 the truth however, Completo would not have accepted the loan. As a result of Defendants'  
12 fraudulent acts described throughout this complaint Completo has lost substantial equity in his  
13 home, has damaged or destroyed credit, and at the time Completo entered into the loan his home  
14 was worth \$800,000.00 now his home is worth approximately \$535,695.00. Completo did not  
15 discover any of these misrepresentations or omissions until after a consultation with legal  
16 counsel at Brookstone Law, and through a complete and thorough investigation of the loan  
17 documentation, and a discussion of the surrounding facts, the fraudulent acts of the Defendants,  
18 as described throughout this complaint, were brought to light on or around September 24, 2012.  
19 (True and correct copy of the aforementioned documents are attached hereto as *Exhibit 29*).

20 40. Plaintiff Irma Laredo ("Laredo") discussed refinancing an existing mortgage on  
21 her property located at 99567 Oak Street, Bellflower, CA 90706 and A.P.N.:7106-005-017 with a  
22 Loan Consultant ("Loan Consultant"), a representative and authorized agent of EZ Funding  
23 Corporation, a correspondent of GMAC and Defendants herein (the "Defendants") authorized by  
24 Defendants to lend on their behalf in or around May 2008. In the course of their discussions  
25 ranging from May 2008 until July 2008, Defendants and Loan Consultant steered her into a fixed  
26 rate mortgage in the amount of \$365,400.00 with an interest rate at 6.75% for a term of 30 years.  
27 This loan was originated by GMAC, on the note and deed of trust EZ Funding Corporation is  
28 identified as the lender, and GMAC is currently servicing the loan.



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1 Further, Defendants and Loan Consultant advised her that she was eligible for a Low Doc  
2 Loan. Unbeknownst to her at the time, Defendants and Loan Consultant used this low  
3 documentation requirement to fraudulently inflate her income by \$3,184.36, a factor of 103%;  
4 and in doing so, Defendants and Loan Consultant caused her to be placed into a loan whose  
5 payments she could not afford given her true, *un-inflated* monthly income. Defendants and Loan  
6 Consultant also fraudulently overstated her assets. Defendants and Loan Consultant altered  
7 Laredo's loan application without her knowing consent or authorization as Loan Consultant  
8 completed Laredo's application without giving Laredo an opportunity to review the loan  
9 application.

10 Defendants and Loan Consultant also explicitly represented to Laredo that she could  
11 afford her loan and further represented that she could shoulder the additional financial burden of  
12 repaying her loan in consideration of her other existing debts. Defendants and Loan Consultant  
13 also represented to them that they could afford a \$2,369.98 monthly payment, despite their  
14 \$3,100.00 true monthly income (a "front-end" debt-to-income ratio, meaning a debt-to-income  
15 ratio, before any other debts are even considered, of over 76%) - in excess of industry standard  
16 underwriting guidelines, and in excess of Defendants' own underwriting guidelines). Defendants  
17 and Loan Consultant further represented to Laredo that she could rely on the assessment that she  
18 was "qualified" to mean that she could afford the loan. Because of Laredo's lack of familiarity  
19 with how much debt a person can and should reasonably take on compared to her monthly  
20 income, and because Laredo reasonably relied on Defendants' and Loan Consultant's expertise  
21 that any payment she was "qualified" for would take into account what the maximum debt a  
22 person such as Laredo should be shouldering was, Laredo reasonably believed Defendants' and  
23 Loan Consultant's representations that she could afford her loan and its payments.

24 In addition, Defendants and Loan Consultant represented that appraisals conducted by or  
25 on behalf of Defendants were accurate and made in good faith. On or around June 25, 2008, an  
26 appraisal company under the direct control and supervision of Defendants, conducted an  
27 appraisal on Laredo's home, which was fraudulently inflated to an intentionally overstated value  
28 Laredo's loan documentation indicates that her home was worth \$620,000.00 at the time she



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1 entered into their loan. The current fair market value of Laredo's home is approximately  
2 \$374,000.00. Laredo alleges that the appraisal was artificially inflated, and that she has suffered  
3 damages in the amount of \$246,000.00 (\$620,000.00-\$374,000.00) due to a substantial loss of  
4 equity in her home as a result of Defendants' fraudulent inflation and other acts described herein.

5 When Laredo was struggling to afford to the mortgage payments, she applied for a loan  
6 modification with Defendant. However, Defendants refused to permanently modify her loan.  
7 Even worse, in the midst of the modification, Defendants initiated the foreclosure proceedings  
8 against Laredo.

9 Furthermore, Defendants and Loan Consultant represented that: (1) Defendants were  
10 reputable and complied with industry standard underwriting guidelines and were engaged in  
11 lending of the highest caliber; (2) property appraisals done by Defendants were accurate and  
12 made in good faith; (3) Laredo could afford the loan; (4) she was "qualified" for her loan; (5)  
13 "qualified" meant that she could afford her loan; (6) Defendants would modify her loan in the  
14 future; and (7) she would be able to refinance her loan in the future.

15 Moreover, Defendants and Loan Consultant withheld or incompletely, inaccurately or  
16 otherwise improperly disclosed to Laredo that: (1) Defendants and Loan Consultant knew that  
17 she could not and would not be able to afford her loan and that there was a very high probability  
18 that she would default and/or be foreclosed upon; (2) Defendants had an incentive to sell her  
19 loan, and did sell her loan at fraudulently inflated prices; (3) Defendants' and Loan Consultant's  
20 "qualification" process was for Defendants' own protection and not hers; (4) that Defendants'  
21 and Loan Consultant's representations that she was "qualified" to pay her loan was not intended  
22 to communicate that she could actually "afford" the loan which she was being given; (5)  
23 Defendants had abandoned its conventional lending business, prudent lending standards, and  
24 industry standard underwriting guidelines; (6) Defendants influenced the appraiser to over-value  
25 Laredo's home to require her to borrow more money with the knowledge that the true value of  
26 Laredo's home was insufficient to justify the amount of Laredo's loan; or (7) Defendants knew  
27 that due to its scheme of fraudulently manipulating and inflating property values throughout the  
28 State of California that the real estate market would crash and Laredo would lose substantial



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1 equity in her home.

2 Based on these misrepresentations and omissions, the material facts concerning Laredo's  
3 loan were concealed from her, and she decided to move forward with her loan. On July 15, 2008,  
4 Laredo signed the loan and Deed of Trust, before a notary. Had she known the truth however,  
5 Laredo would not have accepted the loan. As a result of Defendants' fraudulent acts described  
6 throughout this complaint Laredo has lost substantial equity in her home, has damaged or  
7 destroyed credit, and at the time Laredo entered into the loan her home was worth \$620,000.00,  
8 now her home is worth approximately \$374,000.00. Laredo did not discover any of these  
9 misrepresentations or omissions until after a consultation with legal counsel at Brookstone Law,  
10 and through a complete and thorough investigation of the loan documentation, and a discussion  
11 of the surrounding facts, the fraudulent acts of the Defendants, as described throughout this  
12 complaint, were brought to light on or around February 29, 2012. (True and correct copy of the  
13 aforementioned documents are attached hereto as *Exhibit 30*).

14 41. Plaintiff Marcia Willoughby ("Willoughby") entered into a mortgage contract on  
15 March 9, 2005 with Washington Mutual Bank to refinance an existing mortgage on her property  
16 located at 40625 Vernay Street, Murrieta, CA 92562 and A.P.N.: 949-451-004. Willoughby was  
17 given an ARM PayOption loan in the amount of \$263,900.00 with the interest rate at 5.261%.  
18 The interest rate of the loan was never fixed and could adjust every month thereafter. The loan  
19 was originated by Washington Mutual Bank, and GMAC and Defendants herein (the  
20 "Defendants") is currently servicing the loan.

21 At the time Willoughby entered into the loan, she was represented that appraisals  
22 conducted on her home were accurate and made in good faith. An appraisal company conducted  
23 an appraisal on Willoughby's home, which was fraudulently inflated to an intentionally  
24 overstated value. Willoughby alleges that the appraisal was artificially inflated, and that she has  
25 suffered damages due to a substantial loss of equity in her home.

26 Soon after Willoughby's loan hit the recast point of 115%, she suffered from the payment  
27 shock because her monthly mortgage payment substantially increased. Willoughby sought to  
28 refinance her loan, but she has not been able to refinance her loan. Unable to refinance her loan,



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1 Willoughby also applied for a loan modification with Defendants. In addition, Willoughby was  
2 advised by a representative and authorized agent of Defendants to stop making payments in order  
3 to be eligible for a modification. Willoughby relied on Defendants' and the Defendants  
4 representative and authorized agent's advice and stopped making her monthly payments causing  
5 her to fall even further behind. However, Willoughby was unable to modify her loan.

6 Willoughby has lost substantial equity in her home, has damaged or destroyed credit after  
7 she entered into the loan on March 9, 2005. At the time Willoughby entered into the loan her  
8 home was worth substantially more than its current fair market value. Willoughby did not  
9 discover any of these misrepresentations or omissions until after a consultation with legal  
10 counsel at Brookstone Law, and through a complete and thorough investigation of the loan  
11 documentation, and a discussion of the surrounding facts, the fraudulent acts of the Defendants,  
12 as described throughout this complaint, were brought to light on or around October 25, 2012.

13 42. Plaintiff Victor Pazos ("Pazos") discussed obtaining a mortgage on his home  
14 located at 1403 East 125th, Compton, CA 90222 and A.P.N.:6147-011-011 with a loan  
15 consultant (the "Loan Consultant"), and representative and authorized agent of Defendants  
16 herein (the "Defendants") in or around May 2006. In the course of their discussions ranging from  
17 May 2006 until July 2006, Defendants and Loan Consultant steered him into a loan, of which the  
18 Defendants and Loan Consultant concealed and inaccurately, incompletely or otherwise  
19 improperly disclosed the material terms and information concerning the loan to him. This loan  
20 was originated by GMAC, on the note and deed of trust Mortgage Store Financial Incorporation  
21 is identified as the lender, and Ocwen is currently servicing the loan.

22 Defendants and Loan Consultant explicitly represented to Pazos that he could afford his  
23 loan; and further represented that he could shoulder the additional financial burden of repaying  
24 his loan in consideration of his other existing debts. Loan Consultant and Defendants further  
25 represented to Pazos that he could rely on the assessment that he was "qualified" to mean that he  
26 could afford the loan. Because of Pazos' lack of familiarity with how much debt a person can  
27 and should reasonably take on compared to his/her monthly income, and because Pazos  
28 reasonably relied on Defendants' and Loan Consultant's expertise that any payment he was



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1 “qualified” for would take into account what the maximum debt a person such as Pazos should  
2 be shouldering was, Pazos reasonably believed Defendants’ and Loan Consultant’s  
3 representations that he could afford his loan and its payments.

4 In addition, Defendants and Loan Consultant represented that appraisals conducted by or  
5 on behalf of Defendants were accurate and made in good faith. An appraisal company under the  
6 direct control and supervision of Defendants conducted an appraisal on Pazos’ home, which was  
7 fraudulently inflated to an intentionally overstated value. Pazos alleges that the appraisal was  
8 artificially inflated, and that he has suffered damages due to a substantial loss of equity in his  
9 home as a result of Defendants’ fraudulent inflation and other acts described herein.

10 Loan Consultant and Defendants also represented to Pazos that he would be able to  
11 refinance his loan at a later time. Pazos relied on this assurance in deciding to enter into the  
12 mortgage contract. However, Pazos has not been able to refinance his loan. Loan Consultant  
13 and Defendants also represented that it would modify Pazos’ loan, and Pazos relied on this  
14 representation in deciding to enter into the loan. In addition, Pazos was advised by a  
15 representative and authorized agent of Defendants to stop making payments in order to be  
16 eligible for a modification. Pazos relied on Defendants’ and the Defendants representative and  
17 authorized agent’s advice and stopped making his monthly payments causing him to fall even  
18 further behind. However, Pazos was unable to modify his loan.

19 Furthermore, Loan Consultant and Defendants represented that: (1) Defendants were  
20 reputable and complied with industry standard underwriting guidelines and were engaged in  
21 lending of the highest caliber; (2) property appraisals done by Defendants were accurate and  
22 made in good faith; (3) Pazos could afford the loan; (4) He was “qualified” for his loan; (5)  
23 “qualified” meant that he could afford his loan; (6) He would be able to modify his loan in the  
24 future; and (7) He would be able to refinance his loan in the future.

25 Moreover, Loan Consultant and Defendants withheld or incompletely, inaccurately or  
26 otherwise improperly disclosed to Pazos that: (1) Loan Consultant and Defendants knew that he  
27 could not and would not be able to afford his loan and that there was a very high probability that  
28 he would default and/or be foreclosed upon; (2) Defendants had an incentive to sell his loan, and



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1 did sell his loan at fraudulently inflated prices; (3) Loan Consultant's and Defendants'  
2 "qualification" process was for Defendants' own protection and not his; (4) That Loan  
3 Consultant's and Defendants' representations that he was "qualified" to pay his loan was not  
4 intended to communicate that he could actually "afford" the loan which he was being given; (5)  
5 Defendants had abandoned its conventional lending business, prudent lending standards, and  
6 industry standard underwriting guidelines; (6) Defendants influenced the appraiser to over-value  
7 Pazos' home to require him to borrow more money with the knowledge that the true value of  
8 Pazos' home was insufficient to justify the amount of Pazos' loan; or (7) Defendants knew that  
9 due to its scheme of fraudulently manipulating and inflating property values throughout the State  
10 of California that the real estate market would crash and Pazos would lose substantial equity in  
11 his home.

12 Based on these misrepresentations and omissions, the material facts concerning Pazos'  
13 loan were concealed from him, and he decided to move forward with his loan. On July 26, 2006,  
14 Pazos signed the loan and Deed of Trust, before a notary. Had he known the truth however,  
15 Pazos would not have accepted the loan. As a result of the Defendants' fraudulent acts described  
16 throughout this complaint Pazos has lost substantial equity in his home, has damaged or  
17 destroyed credit, and at the time Pazos entered into the loan his home was worth substantially  
18 more than its current fair market value. Pazos did not discover any of these misrepresentations  
19 or omissions until after a consultation with legal counsel at Brookstone Law, and through a  
20 complete and thorough investigation of the loan documentation, and a discussion of the  
21 surrounding facts, the fraudulent acts of the Defendants, as described throughout this complaint,  
22 were brought to light on or around October 15, 2012.